

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 8-K**

CURRENT REPORT

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

Date of Report (Date of Earliest Event Reported): December 28, 2022

**Odyssey Semiconductor Technologies, Inc.**

(Exact Name of Registrant as Specified in its Charter)

<b>Delaware</b> (State or other Jurisdiction of Incorporation)	<b>333-234741</b> (Commission File Number)	<b>84-1766761</b> (I.R.S. Employer Identification No.)
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**9 Brown Road Ithaca,  
NY 14850**  
(Address of Principal Executive Offices)

Registrant's telephone number, including area code: **(607) 351-9768**

N/A  
(Former Address of Principal Executive Offices)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act: None.

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

On December 28, 2022, Odyssey Semiconductor Technologies, Inc. (the "Company") issued a secured convertible promissory note in the amount of \$2,350,000 (the "Promissory Note") to the Nina and John Edmunds 1998 Family Trust dated January 27, 1998 (the "Edmunds Trust"), of which the Company's Chairman, John Edmunds, is the trustee, pursuant to certain Subscription Agreement (the "Subscription Agreement") of even date.

The Promissory Note was issued as part of a private placement (the "Offering") for sale up to \$3,750,000 of secured convertible promissory notes (collectively, the "Promissory Notes"), of which the prior \$1,250,000 of Promissory Notes was subscribed for by the Edmunds Trust in August 2022.

The Promissory Note bears interest at a rate of ten percent (10%) per annum, on a non-compounding basis, and is due and payable on the earlier of (i) the date upon which the Promissory Notes are converted into equity securities of the Company, or (ii) June 30, 2025. All interest due shall be paid in shares of the Company's common stock, which shall be valued at a price equal to the average of the last 20 trading days' closing price of the Company's common stock, commencing on the date immediately preceding the date of conversion for purposes of the interest computation. The Promissory Notes may be convertible anytime at the discretion of the holders into shares of common stock of the Company at a price equal to the average of the last 20 trading days' closing price, or automatically converted upon (i) the closing of a public offering of the Company's common stock with aggregate proceeds of at least \$5 million or (ii) the listing of the Company's Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act (the "Financing Event"). at a 20% discount to the per share public offering price.

The forms of the Promissory Note and the Subscription Agreement are filed as exhibits to this Current Report on Form 8-K. The descriptions above are qualified in their entirety by reference to the full text of these documents.

In connection with the additional investment by the Edmunds Trust I the Offering, the Company agreed to revise the Note issued in August 2022 to the Edmunds Trust to reflect that (i) the definition of "Financing Event" shall include "the listing of the Company's Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act"; and (ii) the term "Maturity Date" shall mean the earlier of (i) the date upon which the Note is converted into equity securities as set forth in the Note, or June 30, 2025.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant**

The disclosure included under Item 1.01 above is incorporated by reference to this Item 2.03.

### Item 3.02 Unregistered Sales of Equity Securities

The disclosure included under Item 1.01 above is incorporated by reference to this Item 3.02. The Offering is intended to be offered in reliance upon the exemption from registration provided for under Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act") and Rule 506(b) of Regulation D promulgated thereunder ("Regulation D").

This Current Report on Form 8-K shall not constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful.

### Item 9.01. Financial Statements and Exhibits

#### Exhibit No.

#### Description

10.1	<a href="#">Form of Secured Convertible Promissory Note</a>
10.2	<a href="#">Form of Subscription Agreement</a>
10.3	<a href="#">Note Modification Agreement</a>
104	Cover Pager Interactive Data File, formatted in Inline XBRL document

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### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: January 5, 2023

**Odyssey Semiconductor Technologies, Inc.**

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

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THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR UPON RECEIPT BY THE COMPANY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT.

THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNTS SET FORTH ON THE FACE HEREOF. THIS NOTE IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 ET SEQ. OF THE INTERNAL REVENUE CODE.

### SECURED CONVERTIBLE PROMISSORY NOTE

Principal Amount: US \$2,350,000

Date of Issuance: December 21, 2022

1.1 **FOR VALUE RECEIVED**, Odyssey Semiconductor Technologies, Inc., a Delaware Corporation with offices at 9 Brown Road, Ithaca, NY 14850 (the "**Company**"), hereby promises to pay to the order of Nina and John Edmunds 1998 Family Trust dated January 27, 1998 (the "**Holder**"), the principal sum of US \$2,350,000 (the "**Principal Amount**") (this "**Note**") together with interest thereon, at a rate of ten percent (10%) per annum, on a non-compounding basis, on the "**Maturity Date**", which unless earlier converted pursuant to the terms set forth herein, shall be the earlier of (i) the date upon which this Note is converted into equity securities as set forth herein, (ii) or June 30, 2025. The "**Conversion Price**" of the Notes will be as defined under Section 3.1(b).

This Note is a secured convertible promissory note issued by the Company to the Holder in connection with that certain Subscription Agreement, dated as of even date herewith, with identical terms and on the same form as set forth herein. Capitalized terms not otherwise defined in this Note will have the meanings set forth in Section 3.1.

Each of the Company and the Holder may be referred to as a party hereunder, and collectively the parties.

Payment of Interest in kind at Maturity Notwithstanding any provision hereof to the contrary, interest accrued under this Note shall be paid in shares of the Company's common stock, which shall be valued at the Conversion Price.

1. Security. This Note is a secured obligation of the Company to the extent that it is secured by all of the assets of the Company.

2. Priority. This Note shall rank senior to all indebtedness of the Company.

3. Conversion. This Note may be convertible into shares of Common Stock pursuant to the following terms.

#### 3.1 Definitions.

(a) "**Common Stock**" means the Company's common stock, par value US\$0.001 per share.

(b) "**Conversion Price**" means a price per share equal to 80% of the price per share paid by the purchasers of securities in a Financing Event defined under Section 3.1(f), or if there is a Voluntary Conversion or no Financing Event during the term of this Note, then at a price equal to the average of the last 20 trading days' closing price of the Company's common stock, commencing on the date immediately preceding the date of conversion.

(c) "**Note Shares**" means the shares of Common Stock issuable upon conversion of a Note, including any outstanding principal and accrued interest.

(d) "**Corporate Transaction**" means:

(i) the closing of the sale, transfer or other disposition, in a single transaction or series of related transactions, of all or substantially all of the material assets of the Company's;

(ii) the consummation of a merger or consolidation of the Company with or into another entity (except a merger or consolidation in which the holders of capital stock of the Company immediately prior to such merger or consolidation continue to hold a majority of the outstanding voting securities of the capital stock of the Company or the surviving or acquiring entity immediately following the consummation of such transaction); or

(iii) the closing of the transfer (whether by merger, consolidation or otherwise), in a single transaction or series of related transactions, to a "person" or "group" (within the meaning of Section 13(d) and Section 14(d) of the Exchange Act), of the Company's capital stock if, after such closing, such person or group would become the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the outstanding voting securities of the Company (or the surviving or acquiring entity).

For the avoidance of doubt, a transaction will not constitute a "Corporate Transaction" if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately prior to such transaction. Notwithstanding the foregoing, the sale of Equity Securities in a bona fide financing transaction will not be deemed a "Corporate Transaction."

"**Equity Securities**" means (i) Common Stock; (ii) any securities conferring the right to purchase Common Stock; or (iii) any securities directly or indirectly convertible into, or exchangeable for (with or without additional consideration) Common Stock. Notwithstanding the foregoing, the following will not be considered "Equity Securities": (A) any security granted, issued or sold by the Company to any director, officer, employee, consultant or adviser of the Company for the primary purpose of soliciting or retaining their services; and (B) any convertible promissory notes (including this Note) issued by the Company.

(e) "**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

(f) “**Financing Event**” means the earlier of (i) a public offering by the Company of its Common Stock with aggregate gross proceeds of at least \$5 million; or (ii) the listing of the Company’s Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act.

(g) “**Fully Diluted Capitalization**” means the number of issued and outstanding shares of the Company’s capital stock, assuming the conversion or exercise of all of the Company’s outstanding convertible or exercisable securities.

(h) “**Securities Act**” means the Securities Act of 1933, as amended.

3.2 **Voluntary Conversion.** The outstanding principal balance and accrued interest on this Note is convertible at the option of the Holder into shares of the Company’s Common Stock at the Conversion Price prior to the Maturity Date. The Company shall represent to Holder just prior to Maturity Date that no imminent Corporate Transaction has been contemplated or considered in the 60 days prior to the Maturity date, otherwise the Note shall continue to remain outstanding and accrue interest until the status of such Corporate Transaction is finally resolved.

3.3 **Mandatory Conversion.** Principal due and interest accrued on this Note will automatically convert into shares of Common Stock, at the Conversion Price, if at any time during the Term the Company completes a Financing Event.

3.4 **Corporate Transaction Liquidation.** In the event a Corporate Transaction occurs prior to (i) the conversion of this Note pursuant to Section 3.2 or Section 3.3 or (ii) the repayment of this Note, at the closing of such Corporate Transaction, in lieu of conversion the Company shall redeem this Note at a price equal to 200% of the principal amount due hereunder plus accrued interest as part of the closing consideration of such acquisition transaction, which payment shall be in full satisfaction of principal and interest due on this Note.

3.5 **Certificates.** As promptly as practicable after the conversion of this Note and the issuance of the shares of Common Stock, the Company (at its expense) will issue shares of Common Stock to the Holder. The Company will not be required to issue or deliver the shares of Common Stock until the Holder has surrendered this Note to the Company (or provided an instrument of cancellation or affidavit of loss).

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4. **Future Borrowing.** The Company shall not borrow any funds after the completion of the transaction to which this Note relates without the consent of the Holder.

5. **Representations and Warranties of the Company.** In connection with the transactions contemplated by this Note, the Company hereby represents and warrants to the Holder as follows:

5.1 **Due Organization; Qualification and Good Standing.** The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted.

5.2 **Authorization and Enforceability.** Except for the authorization and issuance of the shares of Common Stock upon conversion of this Note, all corporate action has been taken on the part of the Company and its officers, directors and stockholders necessary for the authorization, execution and delivery of this Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors’ rights, the Company has taken all corporate action required to make all of the obligations of the Company reflected in the provisions of this Note valid and enforceable in accordance with its terms.

6. **Restrictions.**

7.1 **Restricted Securities.** None of this Note and the shares of Common Stock issuable upon exercise of this Note (collectively, the “Securities”) have been or will be registered under the Securities Act or state securities laws, by reason of specific exemptions from the registration provisions thereof. The Securities are “restricted securities” under U.S. federal and applicable state securities laws and that, pursuant to these laws, the Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission (“SEC”) and registered or qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Company has no obligation to register or qualify the Securities for resale and, if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Holder’s control, and which the Company is under no obligation, and may not be able, to satisfy.

7.2 **Legends.** The Securities may bear the following legend:

THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR UPON RECEIPT BY THE COMPANY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT OR UNLESS SOLD PURSUANT TO RULE 144 UNDER THE ACT.

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7. **Miscellaneous.**

7.1 **Successors and Assigns.** Except as otherwise provided herein, the terms and conditions of this Note will inure to the benefit of, and be binding upon, the respective successors and assigns of the parties; provided, however, that the Company may not assign its obligations under this Note without the written consent of the Holder. This Note is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Note.

7.2 **Governing Law.** This Note will be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule.

7.3 **Titles and Subtitles.** The titles and subtitles used in this Note are included for convenience only and are not to be considered in construing or interpreting this Note.

7.4 **Notices.** All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email or confirmed facsimile; (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

7.5 **Expenses.** Each party will pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery and performance of this Note.

7.6 Entire Agreement; Amendments and Waivers. This Note constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof. Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the Holder. Any waiver or amendment effected in accordance with this Section 7.6 will be binding upon each future holder of this Note and the Company.

7.7 Severability. If one or more provisions of this Note are held to be unenforceable under applicable law, such provisions will be excluded from this Note and the balance of the Note will be interpreted as if such provisions were so excluded and this Note will be enforceable in accordance with its terms.

7.8 Acknowledgment. For the avoidance of doubt, it is acknowledged that the Holder will be entitled to the benefit of all adjustments in the number of shares of the Company's capital stock as a result of any splits, recapitalizations, combinations or other similar transactions affecting the Company's capital stock that occur prior to the conversion of this Note.

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7.9 Limitation on Interest. In no event will any interest charged, collected or reserved under this Note exceed the maximum rate then permitted by applicable law, and if any payment made by the Company under this Note exceeds such maximum rate, then such excess sum will be credited by the Holder as a payment of principal.

7.10 Officers and Directors not Liable. In no event will any officer or director of the Company be liable for any amounts due and payable pursuant to this Note.

7.11 Most Favored Nation. While this Note or any principal amount or interest due hereunder remain outstanding and unpaid, the Company shall not enter into any private offering of its securities (including securities convertible into shares of common stock) with any individual or entity (an "Other Investor") that has the effect of establishing rights or otherwise benefiting such Other Investor in a manner more favorable in any material respect to such Other Investor than the rights and benefits established in favor of the Holder by this Note unless, in any such case, the Holder has been provided with the option to have the terms and conditions of this Note amended and modified in an economically and legally equivalent manner such that the Holder shall receive the benefit of the more favorable terms and/or conditions (as the case may be) offered to the Other Investor.

7.12 Reorganization, Reclassification, Consolidation, Merger or Sale. If any recapitalization (including but not limited to a forward or reverse split), reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities, or other assets or property (an "**Organic Change**"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder hereof shall thereafter have the right to purchase and receive on conversion (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon conversion of this Note) such shares of stock, securities or other assets or property as shall be equivalent in value to the securities issuable to the Holder upon conversion immediately prior to the Organic Change.

7.13 Waiver of Jury Trial. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER REPRESENTS AND WARRANTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

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IN WITNESS WHEREOF, the Company has caused Note to be signed in its name by an authorized officer as of the date first set forth above.

**Odyssey Semiconductor  
Technologies, Inc.**

By: \_\_\_\_\_  
Name: Mark Davidson  
Title: Chief Executive Officer

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## SUBSCRIPTION AGREEMENT

This SUBSCRIPTION AGREEMENT ("Subscription Agreement") made as of this 21st day of December, 2022, by and between Odyssey Semiconductor Technologies, Inc., a Delaware Corporation (the "Company"), and Nina and John Edmunds 1998 Family Trust dated January 27, 1998 (the "Subscriber"). Company and Subscriber may be collectively referred to for purposes of this Subscription Agreement as the "Parties".

## RECITALS

WHEREAS, the Company intends to offer (the "Offering") for sale \$2,350,000 (the "Offering Amount") of its 10% secured convertible promissory Bridge Notes (each, a "Note"). The Bridge Notes are substantially in the form attached hereto as Exhibit A and are being offered in reliance upon the exemption from registration provided for under Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act") and Rule 506(b) of Regulation D promulgated thereunder ("Regulation D"), the terms and conditions hereinafter set forth.

WHEREAS, the Subscriber desires to acquire certain principal amount of Bridge Notes.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants hereinafter set forth, the parties hereto do hereby agree as follows:

## AGREEMENT

1. **Subscription Procedure**

1.1 Subscription for the Bridge Notes. Subject to the terms and conditions hereinafter set forth, the Subscriber hereby subscribes for and agrees to purchase from the Company the principal amount of Bridge Notes substantially in the form attached hereto as Exhibit A, as is set forth upon the signature page hereof. The Bridge Notes shall bear interest at a rate of ten percent (10%) per annum, on a non-compounding basis, and are due and payable on the earlier of (i) the date upon which the Bridge Notes are converted into equity securities as set forth herein, or (ii) or June 30, 2025 (the "Maturity Date"). All interest due shall be paid in shares of the Company's common stock, which shall be valued at a price equal to the average of the last 20 trading days' closing price of the Company's common stock, commencing on the date immediately preceding the date of conversion for purposes of the interest computation. The Bridge Notes will be offered and sold by the Company solely to "accredited investors" (as defined under Rule 501 of Regulation D of the Securities Act of 1933, as amended).

1.2 Reserved.

1.3 Automatic Conversion of the Bridge Notes. The outstanding principal balance of the Bridge Notes and all accrued interest shall automatically convert into common stock of the Company (the "Note Shares") upon the earlier of (i) a closing of a public offering by the Company of its Common Stock with aggregate gross proceeds of at least \$5 million; or (ii) the listing of the Company's Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act (the "Financing Event"). The "Conversion Price" of the Bridge Notes will be at a price per share equal to 80% of the price per share paid by the purchasers of securities in such Financing Event.

1.4 Voluntary Conversion of Bridge Notes into Common Shares. The Subscriber may elect at any time prior to the Maturity Date to convert the outstanding accrued amount on the Bridge Notes issued hereunder into the number of shares of the Company's common stock at a price equal to the average of the last 20 trading days' closing price of the Company's common stock, commencing on the date immediately preceding the date of conversion (the "Elective Conversion"). Upon an Elective Conversion, the Bridge Notes shall be treated by the Company as surrendered for cancellation and exchanged into shares of common stock and will be deemed, for all purposes, to be cancelled on the books of the Company and the obligations represented by the Notes so terminated and contributed to the capital of the Company.

1.5 Reserved.1.6 Reserved.2. **Representations and Covenants of Subscriber**

The Subscriber represents and warrants to the Company that:

2.1 The Subscriber recognizes that the purchase of the Notes involves a high degree of risk in that (i) the Company may need additional capital to operate its business but has no assurance of additional necessary capital; (ii) an investment in the Company is highly speculative and only investors who can afford the loss of their entire investment should consider investing in the Notes; (iii) an investor may not be able to liquidate his, her or its investment in the Notes; (iv) transferability of the Notes is extremely limited; (v) an investor could sustain the loss of his, her or its entire investment; and (vi) the Company is and will be subject to numerous other risks and uncertainties, including without limitation, significant and material risks relating to the Company's business and operations, and the industries, markets and geographic regions in which the Company competes, as well as risks associated with the Offering, all as more fully set forth herein and in the Risk Factors annexed hereto as Exhibit B, the terms of which have been reviewed and accepted by the Subscriber.

2.2 The Subscriber represents that he, she or it is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act, as indicated by his, her or its Investor Questionnaire, and that he, she or it is able to bear the economic risk of an investment in the Notes. The Subscriber has adequate means of providing for such Subscriber's current financial needs and foreseeable contingencies and has no need for liquidity of its investment in the Notes for an indefinite period of time. The Subscriber must complete the applicable Investor Questionnaire, a form of which is attached hereto as Appendix I, to enable the Company to assess the Subscriber's eligibility for the Offering.

2.3 The Subscriber represents that all information which the Subscriber has provided to the Company concerning the Subscriber or the Subscriber's investor status, financial position, knowledge and experience in financial and business matters, or, in the case of a corporation, trust, partnership, limited liability company, or other entity, the knowledge and experience in financial and business matters of the person making the investment decision on behalf of such entity, including all information contained herein, is correct and complete as of the date of this Agreement, and if there should be any adverse change in such information prior to this subscription being accepted, the Subscriber will immediately provide the Company with such information.

2.4 The Subscriber acknowledges that he, she or it has such knowledge and prior investment experience, including without limitation, investment in private, non-listed and non-registered securities and development-stage companies with limited operating histories, or he, she or it has employed the services of an investment advisor, attorney or accountant to read all of the documents furnished or made available by the Company both to him, her or it and to all other prospective investors in the Offering and to evaluate the merits and risks of such an investment on his, her or its behalf, and that he, she or it recognizes the highly speculative nature of this investment.

2.5 The Subscriber acknowledges receipt and careful review of the risk factors annexed hereto as Exhibit B, and the attachments (Exhibits A, B and C) hereto

(collectively, the “Offering Documents”) and hereby represents that he, she or it has been furnished or given access by the Company during the course of the Offering with or to all information regarding the Company and its financial conditions and results of operations which he, she or it had requested or desired to know; that all documents which could be reasonably provided have been made available for his, her or its inspection and review; that he, she or it has been afforded the opportunity to ask questions of and receive answers from duly authorized representatives of the Company concerning the terms and conditions of the Offering, and any additional information which he, she or it had requested. The Subscriber further represents and acknowledges that the Subscriber has not seen or received any advertisement or general solicitation with respect to the sale of any of the securities of the Company, including, without limitation, the Bridge Notes.

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2.6 The Subscriber acknowledges that the Offering of the Bridge Notes may involve tax consequences, and that the contents of the Offering Documents do not contain tax advice or information. The Subscriber acknowledges that he, she or it must retain his, her or its own professional advisors to evaluate the tax and other consequences of an investment in the Bridge Notes.

2.7 The Subscriber acknowledges that the Offering of the Bridge Notes has not been reviewed or approved by the United States Securities and Exchange Commission (“SEC”) because the Offering is intended to be a nonpublic offering pursuant to Section 4(a)(2) of the Securities Act and/or Rule 506(b) of Regulation D promulgated thereunder. The Subscriber represents that the Bridge Notes are being purchased for his, her or its own account, for investment and not for distribution or resale to others. The Subscriber agrees that he, she or it will not sell or otherwise transfer any of the Bridge Notes or common stock issuable upon conversion of the Bridge Notes unless they are registered under the Securities Act or unless an exemption from such registration is available and, upon the Company’s request, the Company receives an opinion of counsel reasonably satisfactory to the Company confirming that an exemption from such registration is available for such sale or transfer.

2.8 The Subscriber understands that the Bridge Notes have not been registered under the Securities Act by reason of a claimed exemption under the provisions of the Securities Act which depends, in part, upon his, her or its investment intention. The Subscriber realizes that, in the view of the SEC, a purchase now with the intention to distribute would represent a purchase with an intention inconsistent with his, her or its representation to the Company, and the SEC might regard such a distribution as a deferred sale to which such exemption is not available. The Subscriber understands that there is no assurance that the Company will effect a Financing Event or any public listing of its securities.

2.9 The Subscriber understands that Rule 144 (the “Rule”) promulgated under the Securities Act requires, among other conditions, a one (1) year holding period prior to the resale of securities acquired in a non-public offering, such as the Offering, without having to satisfy the registration requirements under the Securities Act. The Subscriber understands that the Company makes no representation or warranty regarding its fulfillment in the future of any reporting requirements under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or its dissemination to the public of any current financial or other information concerning the Company, as is required by Rule 144 as one of the conditions of its availability. The Subscriber consents that the Company may, if it desires, permit the transfer of the Bridge Notes out of his, her or its name only when his, her or its request for transfer is accompanied by an opinion of counsel reasonably satisfactory to the Company that neither the sale nor the proposed transfer results in a violation of the Securities Act, any applicable state “blue sky” laws or any applicable securities laws of any other country, province or jurisdiction (collectively, “Securities Laws”). The Subscriber agrees to hold the Company and its directors, officers and controlling persons and their respective heirs, representatives, successors and assigns harmless and to indemnify them against all liabilities, costs and expenses incurred by them as a result of any misrepresentation made by him/her/it contained herein or in the Investor Questionnaire or any sale or distribution by the undersigned Subscriber in violation of any Securities Laws.

2.10 The Subscriber acknowledges and consents to the placement of one or more legends on any certificate or other document evidencing his, her or its Bridge Notes or shares of common stock issuable upon conversion of the Bridge Notes, stating that they have not been registered under the Securities Act, substantially in the form as set forth below and setting forth or referring to the restrictions on the transferability and sale thereof:

THESE SECURITIES REPRESENTED HEREBY OR THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS AS EVIDENCED BY A LEGAL OPINION OF COUNSEL TO THE TRANSFEROR TO SUCH EFFECT, THE SUBSTANCE OF WHICH SHALL BE REASONABLY ACCEPTABLE TO THE COMPANY.

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2.11 The Subscriber understands that the Company will review this Subscription Agreement and the Investor Questionnaire and agrees that the Company reserves the unrestricted right to reject or limit any subscription and to close the Offering pursuant to the terms of the Offering Documents.

2.12 The Subscriber hereby represents that the address of Subscriber furnished by him, her or it at the signature page of this Subscription Agreement and in the Investor Questionnaire is the Subscriber’s principal residence if the Subscriber is an individual or its principal business address if the Subscriber is a corporation or other entity.

2.13 The Subscriber acknowledges that if the Subscriber is a Registered Representative of a Financial Industry Regulatory Authority (“FINRA”) member firm, the Subscriber must give such firm the notice required by the FINRA Conduct Rules, or any applicable successor rules of the FINRA, receipt of which must be acknowledged by such firm on the signature page hereof. The Subscriber shall also notify the Company if the Subscriber or any affiliate of Subscriber is a registered broker-dealer with the SEC, in which case the Subscriber represents that the Subscriber is purchasing the Bridge Notes in the ordinary course of business and, at the time of purchase of the Bridge Notes, has no agreements or understandings, directly or indirectly, with any person to distribute the Bridge Notes or any portion thereof.

2.14 The Subscriber hereby represents that, except as set forth in the Offering Documents, no representations or warranties have been made to the Subscriber by either the Company or its agents, employees or affiliates and in entering into this transaction, the Subscriber is not relying on any information, other than that contained in the Offering Documents and the results of independent investigation by the Subscriber.

2.15 The Subscriber agrees that he, she or it will purchase the Bridge Notes in the Offering only if his, her or its intent at such time is to make such purchase for investment purposes and not with a view toward resale.

2.16 If the Subscriber is a partnership, corporation, trust or other entity, such partnership, corporation, trust or other entity further represents and warrants that: (i) it was not formed for the purpose of investing in the Company; (ii) it is authorized and otherwise duly qualified to purchase and hold the Bridge Notes; and (iii) that this Subscription Agreement has been duly and validly authorized, executed and delivered and constitutes the legal, binding and enforceable obligation of the Subscriber.

2.17 If the Subscriber is not a United States person, such Subscriber hereby represents that he, she or it has satisfied himself/herself/itself as to the full observance of the laws of its jurisdiction in connection with any invitation to subscribe for the Bridge Notes or any use of this Subscription Agreement, including (i) the legal requirements within his/her/its jurisdiction for the purchase of the Bridge Notes, (ii) any foreign exchange restrictions applicable to such purchase, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of the Bridge Notes. Such Subscriber’s subscription and payment for, and his, her or its continued beneficial ownership of the Bridge Notes, will not violate any applicable securities or other laws of the Subscriber’s jurisdiction.

2.18 The Subscriber acknowledges that (i) the Offering Documents contain material, non-public information concerning the Company, and (ii) the Subscriber is obtaining such material, non-public information solely for the purpose of considering whether to purchase the Bridge Notes pursuant to a private placement that is exempt from registration under the Act. The Subscriber agrees to keep such information confidential and not to disclose it to any other person or entity except the Subscriber's legal counsel, advisors and other representatives who have agreed (i) to keep such information confidential, (ii) to use such information only for the purpose set forth above, and (iii) to comply with applicable securities laws with respect to such information.

2.19 The Subscriber agrees to indemnify and hold harmless the Company and its officers, directors, employees and affiliates and each other person, if any, who controls any of the foregoing, against any loss, liability, claim, damage and expense whatsoever (including, but not limited to, any and all expenses whatsoever reasonably incurred in investigating, preparing or defending against any litigation commenced or threatened or any claim whatsoever) arising out of or based upon any false representation or warranty by the Subscriber, or the Subscriber's breach of, or failure to comply with, any covenant or agreement made by the Subscriber herein or in any other document furnished by the Subscriber to the Company or its respective officers, directors, employees or affiliates or each other person, if any, who controls any of the foregoing in connection with this transaction.

2.20 The Subscriber understands and acknowledges that (i) the Bridge Notes are being offered and sold to Subscriber without registration under the Securities Act in a private placement that is exempt pursuant to Section 4(a)(2) of the Securities Act and/or Rule 506(b) of Regulation D promulgated thereunder; and (ii) the availability of such exemption depends in part on, and that the Company will rely upon the accuracy and truthfulness of, the foregoing representations made by the Subscriber, and such Subscriber hereby consents to such reliance.

2.21 The Subscriber understands and acknowledges that he, she or it will at all times be in compliance with any and all state and federal securities and other laws, statutes and regulations regarding his, her or its ownership and/or any sale, transfer or hypothecation of the Bridge Notes including but not limited to those rules and regulations promulgated by the SEC, FINRA and any exchange on which the Company's securities are listed, if applicable, and those of federal and state governments and other agencies such as improper short selling of the Company's securities and failure to properly file all documents required by the SEC or otherwise, to the extent such rules and regulations are applicable to the Company's common stock and/or the Bridge Notes.

2.22 The Subscriber understands and agrees that an investment in the Bridge Notes involves special risks, and the undersigned understands those risks (including without limitation the risks set forth in the Offering Documents), and the Subscriber is expressly assuming such risks. The Subscriber acknowledges and is aware that the Bridge Notes are speculative investments which involve a high degree of risk of loss by Subscriber of his, her or its entire investment in the Company. The Subscriber agrees and acknowledges that it is the Subscriber's sole responsibility to conduct a "due diligence" investigation of the Company and the financial prospects of the Company. The Subscriber has not relied on the Company for due diligence or suitability or investment recommendations.

2.23 The Subscriber agrees to "lock-up" and not sell any Note Shares for a minimum of 3 months from the date of issuance of such Note Shares.

2.24 **The Subscriber should check the Office of Foreign Assets Control ("OFAC") website at <http://www.treas.gov/ofac> before making the following representations.**

(a) The Subscriber represents that the amounts invested by him, her or it in the Company in the Offering were not and are not directly or indirectly derived from activities that contravene federal, state or international laws and regulations, including anti-money laundering laws and regulations. Federal regulations and Executive Orders administered by OFAC prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC (the "OFAC Programs") prohibit dealing with individuals<sup>[1]</sup> or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists.

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<sup>1</sup> These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

(b) To the best of the Subscriber's knowledge, none of: (1) the Subscriber; (2) any person controlling or controlled by the Subscriber; (3) if the Subscriber is a privately-held entity, any person having a beneficial interest in the Subscriber; or (4) any person for whom the Subscriber is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or a person or entity prohibited under the OFAC Programs. The Subscriber understands that Company may not accept any amounts from a prospective investor if such prospective investor cannot make the representation set forth in the preceding paragraph. The Subscriber agrees to promptly notify the Company should the Subscriber become aware of any change in the information set forth in these representations. The Subscriber understands and acknowledges that, by law, the Company may be obligated to "freeze the account" of the Subscriber, either by prohibiting additional subscriptions from the Subscriber, declining any redemption requests and/or segregating the assets in the account in compliance with governmental regulations, and may also be required to report such action and to disclose the Subscriber's identity to OFAC. The Subscriber further acknowledges that the Company may, by written notice to the Subscriber, suspend the redemption rights, if any, of the Subscriber if the Company reasonably deems it necessary to do so to comply with anti-money laundering regulations applicable to the Company or any of the Company's other service providers. These individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanctions and embargo programs.

(c) To the best of the Subscriber's knowledge, none of: (1) the Subscriber; (2) any person controlling or controlled by the Subscriber; (3) if the Subscriber is a privately-held entity, any person having a beneficial interest in the Subscriber; or (4) any person for whom the Subscriber is acting as agent or nominee in connection with this investment is a senior foreign political figure,<sup>[2]</sup> or any immediate family<sup>[3]</sup> member or close associate<sup>[4]</sup> of a senior foreign political figure, as such terms are defined in the footnotes below.

### 3. **Representations and Covenants by the Company**

The Company represents and warrants to the Subscriber that:

3.1 **Organization and Authority.** The Company has all requisite corporate power and authority to execute, deliver and perform its obligations under this Subscription Agreement and the Offering Documents being executed and delivered by it in connection herewith, and to consummate the transactions contemplated hereby and thereby.

3.2 **Authorization.** The Offering Documents have been duly and validly authorized by the Company. This Subscription Agreement, assuming due execution and delivery by the Subscriber, when the Subscription Agreement is executed and delivered by the Company, will be, valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as the enforceability hereof and thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting creditors' rights generally and general principles of equity, regardless of whether enforcement is considered in a proceeding in equity or at law.



3.3 Non-Contravention. The execution and delivery of the Offering Documents by the Company and the issuance of the Bridge Notes as contemplated by the Offering Documents do not and will not, with or without the giving of notice or the lapse of time, or both, (i) result in any violation of any provision of the articles of incorporation or by-laws or similar instruments of the Company or its subsidiaries, (ii) violate or contravene any applicable law, rule or regulation or any applicable decree, judgment or order of any court, United States federal or state regulatory body, administrative agency or other governmental body having jurisdiction over the Company or any of its subsidiaries or any of its respective properties or assets that would have a material adverse effect on the business, properties, operations, condition (financial or other), results of operations or prospects of the Company and its subsidiaries, taken as a whole, or the validity or enforceability of, or the ability of the Company to perform its obligations under, the Offering Documents, or (iii) have any material adverse effect on any permit, certification, registration, approval, consent, license or franchise necessary for the Company or its subsidiaries to own or lease and operate any of its properties and to conduct any of its business or the ability of the Company or its subsidiaries to make use thereof.

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<sup>2</sup> A “senior foreign political figure” is defined as a senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation. In addition, a “senior foreign political figure” includes any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure.

<sup>3</sup> “Immediate family” of a senior foreign political figure typically includes the figure’s parents, siblings, spouse, children and in-laws.

<sup>4</sup> A “close associate” of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

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3.4 Absence of Certain Proceedings. The Company is not aware of any action, suit, proceeding, inquiry or investigation before or by any court, public board or body, or governmental agency pending or threatened against or affecting the Company or any of its subsidiaries, in any such case wherein an unfavorable decision, ruling or finding could adversely affect the validity or enforceability of, or the authority or ability of the Company to perform its obligations under, the Offering Documents.

3.5 No Equity Lines or Derivative Securities. Odyssey will not enter into equity lines of credit or issue instruments convertible into Common Stock on a floating price basis while the Bridge Notes are outstanding.

3.6 Seniority of Bridge Notes. The Bridge Notes will be senior to all other unsecured indebtedness. The Company will not create new indebtedness that ranks senior to, or *pari passu* with, the Bridge Notes, without the written consent of holders of a majority of the outstanding Bridge Notes. The Company shall take such steps as may be necessary to ensure that the Bridge Notes will be secured by a first priority security interest on all of the assets of Odyssey.

3.7 Net Proceeds from Bridge Notes. The net proceeds of the Bridge Notes will be used by the Company for working capital, funding operations and the acquisition of certain equipment or leasehold improvements in the ordinary course of business.

3.8 Change of Control. In the event that the Company enters into a Corporate Transaction (as defined in the Bridge Note), then in lieu of conversion, the Company shall redeem the Bridge Notes at a price equal to 200% of the principal amount due on the Bridge Notes irrespective of any transaction expenses, liabilities or taxes (other than any capital gains taxes that may be due from Subscriber for gains on the purchase of the Bridge Notes) and as a priority or preference to any payments to any other shareholders of Odyssey, as part of the closing consideration of such acquisition transaction.

3.9 No Placement Agent. The Company is placing the Bridge Notes through its officers and directors and has not engaged any placement agent to assist with the offer and sale of the Bridge Notes. No officer or director will receive any compensation for offers and sales of the Bridge Notes. The Company reserves the right to engage FINRA member broker/dealers to assist in this Offering, and may pay them a commission for any such sales.

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#### 4. Miscellaneous

Any notice or other communication given hereunder shall be deemed sufficient if in writing and sent by registered or certified mail, return receipt requested, addressed to the Company, at Mark Davidson, Chief Executive Officer, Odyssey Semiconductor Technologies, Inc., 9 Brown Road, Ithaca, NY 14850, Telephone: (607) 351-9768, and to the Subscriber at his, her or its address indicated on the signature page of this Subscription Agreement. Notices shall be deemed to have been given three (3) business days after the date of mailing, except notices of change of address, which shall be deemed to have been given when received.

4.1 This Subscription Agreement may be amended through a written instrument signed by both the Subscriber and the Company.

4.2 This Subscription Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, legal representatives, successors and assigns. This Subscription Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of any and every nature among them.

4.3 This Subscription Agreement shall be construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law. The parties hereunder agree that any dispute arising out of or relating to an investment pursuant to this Subscription Agreement or concerning this Subscription Agreement, including but not limited to disputes as to arbitrability and all disputes with the Company, or any employee, agent, representative, officer, director or attorney of the Company, shall be resolved through final, binding, non-appealable arbitration, before a single, neutral arbitrator, at JAMS, in New York County, New York in accordance with the rules and regulations of the American Arbitration Association. Venue of all arbitration shall be JAMS Dispute Resolution Center, New York County, New York. The Parties agree that each side will pay fifty percent (50%) of the cost of any arbitration proceedings. Judgment on any arbitration award may be entered in any court having jurisdiction. Any arbitration award shall be in United States Dollars and may be enforced in any jurisdiction in which the party against whom enforcement is sought maintains assets. The Parties agree to limit their respective testimony at any arbitration hearing to three hours per side. SUBSCRIBER HEREBY WAIVES ANY RIGHT TO SEEK ANY TYPE OF DAMAGES OTHER THAN COMPENSATORY DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES AND PUNITIVE DAMAGES. SUBSCRIBER HEREBY FURTHER WAIVES THE RIGHT TO A TRIAL BY JURY, THE RIGHT TO BRING A CLASS ACTION SUIT, AND OTHER POTENTIAL REMEDIES THAT OTHERWISE MAY BE AFFORDED BY LAW. THIS IS A CLASS ACTION WAIVER THAT APPLIES TO ALL DISPUTES ARISING OUT OF THIS INVESTMENT, INCLUDING BUT NOT LIMITED TO ANY DISPUTES WITH THE COMPANY AND ALL OF ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, DIRECTORS, OR ATTORNEYS.

4.4 This Subscription Agreement may be executed in counterparts. It shall not be binding upon the Company unless and until it is accepted by the Company. Upon the execution and delivery of this Subscription Agreement by the Subscriber, this Subscription Agreement shall become a binding obligation of the Subscriber with respect to the purchase of Bridge Notes as herein provided; subject, however, to the right hereby reserved to the Company to enter into the same agreements with other subscribers and to add and/or to delete other persons as subscribers. This Subscription Agreement may be executed and delivered by facsimile or by email with scanned copy.

4.5 The holding of any provision of this Subscription Agreement to be invalid or unenforceable by a court of competent jurisdiction shall not affect any other provision of this Subscription Agreement, which shall remain in full force and effect.

4.6 It is agreed that a waiver by either party of a breach of any provision of this Subscription Agreement shall not operate, or be construed, as a waiver of any

subsequent breach by that same party.

4.7 The parties agree to execute and deliver all such further documents, agreements and instruments and take such other and further action as may be necessary or appropriate to carry out the purposes and intent of this Subscription Agreement.

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4.8 The Company agrees not to disclose the names, addresses or any other information about the Subscriber, except as required by law.

4.9 Reserved.

4.10 The language used in this Subscription Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and no rules of strict construction will be applied against any party.

4.11 **Most Favored Nation.** While the Bridge Note or any principal amount or interest due thereunder remain outstanding and unpaid, the Company shall not enter into any private offering of its securities (including securities convertible into shares of common stock) with any individual or entity (an "Other Investor") that has the effect of establishing rights or otherwise benefiting such Other Investor in a manner more favorable in any material respect to such Other Investor than the rights and benefits established in favor of the Subscriber unless, in any such case, the Subscriber has been provided with the option to have the terms and conditions of the Bridge Note amended and modified in an economically and legally equivalent manner such that the Subscriber shall receive the benefit of the more favorable terms and/or conditions (as the case may be) offered to the Other Investor.

4.12 **Reorganization, Reclassification, Consolidation, Merger or Sale.** If any recapitalization (including but not limited to a forward or reverse split), reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities, or other assets or property (an "**Organic Change**"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Subscriber shall thereafter have the right to purchase and receive on conversion (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon conversion of this Note) cash or, if acceptable to Subscriber, such shares of registered stock in a public company registered on a national exchange (NYSE or Nasdaq), as shall be equivalent in value to the securities issuable to the Subscriber upon conversion immediately prior to the Organic Change.

[INVESTOR QUESTIONNAIRE AND SIGNATURE PAGE FOLLOWS]

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## Appendix I

### Investor Questionnaire

Unless instructed otherwise, the Investor should answer each question on the Questionnaire. If the answer to a particular question is "None" or "Not Applicable," please so state. If the Questionnaire does not provide sufficient space to answer a question, please attach a separate schedule to your executed Questionnaire that indicates which question is being answered thereon. Persons having questions concerning any of the information requested in this Questionnaire should consult with their purchaser representative or representatives, lawyer, accountant or broker.

#### **PART I — FOR INDIVIDUALS**

##### ***1. Personal Data***

Name:  
Residence Address:  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State of residence, if different: California  
Telephone: Residence Business  
Age: Citizenship: USA  
Send all correspondence to: Residence \_\_\_\_ Business \_\_\_\_\_

##### ***2. Investor Status***

To be qualified to invest in the Bridge Notes, the Investor must either (i) be an Accredited Investor, or (ii) have, either alone or with your purchaser representative or representatives, such knowledge and experience in financial and business matters that you are capable of evaluating the merits and risks of such investment.

Please check the appropriate representation that applies to you.

##### **Accredited Investors:**

\_\_\_\_\_ I am an Accredited Investor (as defined in Rule 501 of Regulation D promulgated under the Securities Act) because I certify that (check all appropriate descriptions that apply):

- a. \_\_\_\_\_ I have a net worth, or joint net worth with my spouse or spousal equivalent, of more than US\$1,000,000. ("Net worth" means the excess of total assets at fair market value (including personal and real property, but excluding the estimated fair market value of your primary home) over total liabilities. "Total liabilities" excludes any mortgage on the primary home in an amount of up to the home's estimated fair market value as long as the mortgage was incurred more than 60 days before the Shares are purchased, but includes (i) any mortgage amount in excess of the home's fair market value and (ii) any mortgage amount that was borrowed during the 60-day period before the closing date for the sale of the Shares for the purpose of investing in the Shares. "Spousal equivalent" means a cohabitant occupying a relationship generally equivalent to that of a spouse. "Joint net worth" is the aggregate net worth of a person and spouse or spousal equivalent; assets do not need to be held jointly to be included in the calculation.)
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- b. \_\_\_\_\_ I have had an individual income in excess of US\$200,000 in each of the two most recent calendar years, or joint income with my spouse or spousal equivalent in excess of US\$300,000 in each of those years, and have a reasonable expectation of reaching the same income level in the current calendar year. ("Income" means annual adjusted gross income, as reported for federal income tax purposes, plus (i) the amount of any tax-exempt interest income received; (ii) the amount of losses claimed as a limited partner in a limited partnership; (iii) any deduction claimed for depletion; (iv) amounts contributed to an IRA or Keogh retirement plan; (v) alimony paid; and (vi) any gains excluded from the calculation of adjusted gross income pursuant to the provisions of Section 1202 of the U.S. Internal Revenue Code of 1986, as amended.)
- c. \_\_\_\_\_ I hold in good standing one of the following professional licenses: the General Securities Representative license (Series 7), the Private Securities Offerings Representative license (Series 82), or the Investment Adviser Representative license (Series 65).
- d. \_\_\_\_\_ I am a director, executive officer or general partner of the Issuer, or a director, executive officer or general partner of a general partner of the Issuer. (For purposes of this item 2, "executive officer" means the president; any vice president in charge of a principal business unit, division or function, such as sales, administration or finance; or any other person or persons who perform(s) similar policymaking functions for the Issuer.)

## **PART II—PURCHASERS WHO ARE NOT INDIVIDUALS**

### ***1. General Information***

Name of Entity: \_\_\_\_\_  
 Address of Principal Office: \_\_\_\_\_

Type of Organization: \_\_\_\_\_  
 Date and State of Organization: \_\_\_\_\_

### ***2. Accredited Investor Status***

To be qualified to invest in the Bridge Notes, the Investor must either (i) be an Accredited Investor, or (ii) have, and if applicable, its officers, employees, directors or equity owners have, either alone or with its purchaser representative or representatives, such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of such investment.

Please check the appropriate description which applies to you.

- a. \_\_\_\_\_ A bank, as defined in Section 3(a)(2) of the Securities Act or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act, whether acting in an individual or a fiduciary capacity.
- b. \_\_\_\_\_ A broker or dealer registered under Section 15 of the Securities Exchange Act of 1934, as amended.
- c. \_\_\_\_\_ An investment adviser registered pursuant to Section 203 of the U.S. Investment Advisers Act of 1940 or registered pursuant to the laws of a state.
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- d. \_\_\_\_\_ An investment adviser relying on the exemption from registering with the SEC under Section 203(l) or (m) of the Investment Advisers Act of 1940.
- e. \_\_\_\_\_ An insurance company, as defined in Section 2(a)(13) of the Securities Act.
- f. \_\_\_\_\_ An investment company registered under the Investment Company Act of 1940 or a business development company, as defined in Section 2(a)(48) of that act.
- g. \_\_\_\_\_ A Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the U.S. Small Business Investment Act of 1958.
- h. \_\_\_\_\_ A Rural Business Investment Company as defined in Section 384A of the U.S. Consolidated Farm and Rural Act.
- i. \_\_\_\_\_ A plan established and maintained by a state, its political subdivisions or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if the plan has total assets in excess of US\$5 million.
- j. \_\_\_\_\_ An employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, if the investment decision is being made by a plan fiduciary, as defined in Section 3(21) of such act, and the plan fiduciary is either a bank, a savings and loan association, an insurance company, or a registered investment adviser, or if the employee benefit plan has total assets in excess of US\$5 million, or if the employee benefit plan is a self-directed plan in which investment decisions are made solely by persons that are accredited investors.
- k. \_\_\_\_\_ A private business development company, as defined in Section 202(a)(22) of the Investment Advisers Act of 1940.
- l. \_\_\_\_\_ A corporation, Massachusetts or similar business trust, partnership, or limited liability company or an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that was not formed for the specific purpose of acquiring the Securities, and that has total assets in excess of US\$5 million.
- m. \_\_\_\_\_ A trust with total assets in excess of US\$5 million not formed for the specific purpose of acquiring the Securities, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) under the Securities Act.
- n. \_\_\_\_\_ An entity in which all of the equity owners (whether entities themselves or natural persons) are accredited investors and meet the criteria listed under the section of "For Individual Investors Only" of this Certification.
- o. \_\_\_\_\_ An entity of a type not listed above, that is not formed for the specific purpose of acquiring the Shares and owns investments in excess of US\$5 million. For purposes of this clause, "investments" means investments as defined in Rule 2a51-1(b) under the Investment Company Act of 1940.
- p. \_\_\_\_\_ A family office, as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, that (i) has assets under management in excess of US\$5 million; (ii) is not formed for the specific purpose of acquiring the Securities and (iii) has a person directing the prospective investment who has such knowledge and experience in financial and business matters so that the family office is capable of evaluating the merits and risks of the prospective investment.

q. \_\_\_\_\_ A family client, as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, of a family office meeting the requirements of the immediately preceding clause and whose prospective investment in the Issuer is directed by that family office pursuant to subclause (iii) of the immediately preceding clause.

[SIGNATURE PAGE FOLLOWS]

This page constitutes the signature page for the Subscription Agreement, the Investor Questionnaire and execution of this signature page constitutes execution of each. IN WITNESS WHEREOF, the Subscriber has executed this Subscription Agreement and Investor Questionnaire this 21st day of December, 2022.

\$ 2,350,000  
Total Purchase Price

**For Individuals:**

\_\_\_\_\_  
Name of Prospective Investor (print or type)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name of Joint Prospective Investor (print or type)  
(if applicable)

\_\_\_\_\_  
(Joint Signature, if applicable)

**For Entities:**

\_\_\_\_\_  
Name of Prospective Investor (print or type)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
(Name and Initials of IRA custodian, if applicable)

\$ 2,350,000  
Total Purchase Price Accepted

Accepted and Agreed, as of December 21, 2022:

**Odyssey Semiconductor Technologies, Inc.**

By: \_\_\_\_\_  
Name: Mark Davidson, CEO

**Exhibit A**

**Form of Secured Convertible Promissory Note**

*Note No. 12212022*

**THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR UPON RECEIPT BY THE COMPANY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT.**

**THE PRINCIPAL AMOUNT REPRESENTED BY THIS NOTE AND, ACCORDINGLY, THE SECURITIES ISSUABLE UPON CONVERSION HEREOF MAY BE LESS THAN THE AMOUNTS SET FORTH ON THE FACE HEREOF. THIS NOTE IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 ET SEQ. OF THE INTERNAL REVENUE CODE.**

**SECURED CONVERTIBLE PROMISSORY NOTE**

**Principal Amount: US \$2,350,000**

**Date of Issuance: December 21, 2022**

1.1 **FOR VALUE RECEIVED**, Odyssey Semiconductor Technologies, Inc., a Delaware Corporation with offices at 9 Brown Road, Ithaca, NY 14850 (the “**Company**”), hereby promises to pay to the order of Nina and John Edmunds 1998 Family Trust dated January 27, 1998 (the “**Holder**”), the principal sum of US \$2,350,000 (the “**Principal Amount**”) (this “**Note**”) together with interest thereon, at a rate of ten percent (10%) per annum, on a non-compounding basis, on the “**Maturity Date**”, which unless earlier converted pursuant to the terms set forth herein, shall be the earlier of (i) the date upon which this Note is converted into equity securities as set forth herein, (ii) or June 30, 2025. The “**Conversion Price**” of the Notes will be as defined under Section 3.1(b).

This Note is a secured convertible promissory note issued by the Company to the Holder in connection with that certain Subscription Agreement, dated as of even date herewith, with identical terms and on the same form as set forth herein. Capitalized terms not otherwise defined in this Note will have the meanings set forth in Section 3.1.

Each of the Company and the Holder may be referred to as a party hereunder, and collectively the parties.

Payment of Interest in kind at Maturity Notwithstanding any provision hereof to the contrary, interest accrued under this Note shall be paid in shares of the Company’s common stock, which shall be valued at the Conversion Price.

1. Security. This Note is a secured obligation of the Company to the extent that it is secured by all of the assets of the Company.

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2. Priority. This Note shall rank senior to all indebtedness of the Company.

3. Conversion. This Note may be convertible into shares of Common Stock pursuant to the following terms.

3.1 Definitions.

(a) “**Common Stock**” means the Company’s common stock, par value US\$0.001 per share.

(b) “**Conversion Price**” means a price per share equal to 80% of the price per share paid by the purchasers of securities in a Financing Event defined under Section 3.1(f), or if there is a Voluntary Conversion or no Financing Event during the term of this Note, then at a price equal to the average of the last 20 trading days’ closing price of the Company’s common stock, commencing on the date immediately preceding the date of conversion.

(c) “**Note Shares**” means the shares of Common Stock issuable upon conversion of a Note, including any outstanding principal and accrued interest.

(d) “**Corporate Transaction**” means:

(i) the closing of the sale, transfer or other disposition, in a single transaction or series of related transactions, of all or substantially all of the material assets of the Company’s;

(ii) the consummation of a merger or consolidation of the Company with or into another entity (except a merger or consolidation in which the holders of capital stock of the Company immediately prior to such merger or consolidation continue to hold a majority of the outstanding voting securities of the capital stock of the Company or the surviving or acquiring entity immediately following the consummation of such transaction); or

(iii) the closing of the transfer (whether by merger, consolidation or otherwise), in a single transaction or series of related transactions, to a “person” or “group” (within the meaning of Section 13(d) and Section 14(d) of the Exchange Act), of the Company’s capital stock if, after such closing, such person or group would become the “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act) of more than 50% of the outstanding voting securities of the Company (or the surviving or acquiring entity).

For the avoidance of doubt, a transaction will not constitute a “Corporate Transaction” if its sole purpose is to change the state of the Company’s incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company’s securities immediately prior to such transaction. Notwithstanding the foregoing, the sale of Equity Securities in a bona fide financing transaction will not be deemed a “Corporate Transaction.”

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“**Equity Securities**” means (i) Common Stock; (ii) any securities conferring the right to purchase Common Stock; or (iii) any securities directly or indirectly convertible into, or exchangeable for (with or without additional consideration) Common Stock. Notwithstanding the foregoing, the following will not be considered “Equity Securities”: (A) any security granted, issued or sold by the Company to any director, officer, employee, consultant or adviser of the Company for the primary purpose of soliciting or retaining their services; and (B) any convertible promissory notes (including this Note) issued by the Company.

(e) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

(f) “**Financing Event**” means the earlier of (i) a public offering by the Company of its Common Stock with aggregate gross proceeds of at least \$5 million; or (ii) the listing of the Company’s Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act.

(g) “**Fully Diluted Capitalization**” means the number of issued and outstanding shares of the Company’s capital stock, assuming the conversion or exercise of all of the Company’s outstanding convertible or exercisable securities.

(h) “**Securities Act**” means the Securities Act of 1933, as amended.

3.2 Voluntary Conversion. The outstanding principal balance and accrued interest on this Note is convertible at the option of the Holder into shares of the Company’s Common Stock at the Conversion Price prior to the Maturity Date. The Company shall represent to Holder just prior to Maturity Date that no imminent Corporate Transaction has been contemplated or considered in the 60 days prior to the Maturity date, otherwise the Note shall continue to remain outstanding and accrue interest until the status of such Corporate Transaction is finally resolved.

3.3 Mandatory Conversion. Principal due and interest accrued on this Note will automatically convert into shares of Common Stock, at the Conversion Price, if at any time during the Term the Company completes a Financing Event.

3.4 Corporate Transaction Liquidation. In the event a Corporate Transaction occurs prior to (i) the conversion of this Note pursuant to Section 3.2 or Section 3.3 or (ii) the repayment of this Note, at the closing of such Corporate Transaction, in lieu of conversion the Company shall redeem this Note at a price equal to 200% of the

principal amount due hereunder plus accrued interest as part of the closing consideration of such acquisition transaction, which payment shall be in full satisfaction of principal and interest due on this Note.

3.5 Certificates. As promptly as practicable after the conversion of this Note and the issuance of the shares of Common Stock, the Company (at its expense) will issue shares of Common Stock to the Holder. The Company will not be required to issue or deliver the shares of Common Stock until the Holder has surrendered this Note to the Company (or provided an instrument of cancellation or affidavit of loss).

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4. Future Borrowing. The Company shall not borrow any funds after the completion of the transaction to which this Note relates without the consent of the Holder.

5. Representations and Warranties of the Company. In connection with the transactions contemplated by this Note, the Company hereby represents and warrants to the Holder as follows:

5.1 Due Organization; Qualification and Good Standing. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as now conducted.

5.2 Authorization and Enforceability. Except for the authorization and issuance of the shares of Common Stock upon conversion of this Note, all corporate action has been taken on the part of the Company and its officers, directors and stockholders necessary for the authorization, execution and delivery of this Note. Except as may be limited by applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights, the Company has taken all corporate action required to make all of the obligations of the Company reflected in the provisions of this Note valid and enforceable in accordance with its terms.

6. Restrictions.

7.1 Restricted Securities. None of this Note and the shares of Common Stock issuable upon exercise of this Note (collectively, the "Securities") have been or will be registered under the Securities Act or state securities laws, by reason of specific exemptions from the registration provisions thereof. The Securities are "restricted securities" under U.S. federal and applicable state securities laws and that, pursuant to these laws, the Holder must hold the Securities indefinitely unless they are registered with the Securities and Exchange Commission ("SEC") and registered or qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Company has no obligation to register or qualify the Securities for resale and, if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Securities, and on requirements relating to the Company which are outside of the Holder's control, and which the Company is under no obligation, and may not be able, to satisfy.

7.2 Legends. The Securities may bear the following legend:

THIS INSTRUMENT AND THE SECURITIES ISSUABLE UPON THE CONVERSION HEREOF HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"). THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR UPON RECEIPT BY THE COMPANY OF AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER THE ACT OR UNLESS SOLD PURSUANT TO RULE 144 UNDER THE ACT.

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7. Miscellaneous.

7.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Note will inure to the benefit of, and be binding upon, the respective successors and assigns of the parties; provided, however, that the Company may not assign its obligations under this Note without the written consent of the Holder. This Note is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Note.

7.2 Governing Law. This Note will be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule.

7.3 Titles and Subtitles. The titles and subtitles used in this Note are included for convenience only and are not to be considered in construing or interpreting this Note.

7.4 Notices. All notices and other communications given or made pursuant hereto will be in writing and will be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by email or confirmed facsimile; (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt.

7.5 Expenses. Each party will pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery and performance of this Note.

7.6 Entire Agreement; Amendments and Waivers. This Note constitutes the full and entire understanding and agreement between the parties with regard to the subject hereof. Any term of this Note may be amended and the observance of any term may be waived (either generally or in a particular instance and either retroactively or prospectively) with the written consent of the Company and the Holder. Any waiver or amendment effected in accordance with this Section 7.6 will be binding upon each future holder of this Note and the Company.

7.7 Severability. If one or more provisions of this Note are held to be unenforceable under applicable law, such provisions will be excluded from this Note and the balance of the Note will be interpreted as if such provisions were so excluded and this Note will be enforceable in accordance with its terms.

7.8 Acknowledgment. For the avoidance of doubt, it is acknowledged that the Holder will be entitled to the benefit of all adjustments in the number of shares of the Company's capital stock as a result of any splits, recapitalizations, combinations or other similar transactions affecting the Company's capital stock that occur prior to the conversion of this Note.

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7.9 Limitation on Interest. In no event will any interest charged, collected or reserved under this Note exceed the maximum rate then permitted by applicable

law, and if any payment made by the Company under this Note exceeds such maximum rate, then such excess sum will be credited by the Holder as a payment of principal.

7.10 Officers and Directors not Liable. In no event will any officer or director of the Company be liable for any amounts due and payable pursuant to this Note.

7.11 Most Favored Nation. While this Note or any principal amount or interest due hereunder remain outstanding and unpaid, the Company shall not enter into any private offering of its securities (including securities convertible into shares of common stock) with any individual or entity (an "Other Investor") that has the effect of establishing rights or otherwise benefiting such Other Investor in a manner more favorable in any material respect to such Other Investor than the rights and benefits established in favor of the Holder by this Note unless, in any such case, the Holder has been provided with the option to have the terms and conditions of this Note amended and modified in an economically and legally equivalent manner such that the Holder shall receive the benefit of the more favorable terms and/or conditions (as the case may be) offered to the Other Investor.

7.12 Reorganization, Reclassification, Consolidation, Merger or Sale. If any recapitalization (including but not limited to a forward or reverse split), reclassification or reorganization of the capital stock of the Company, or any consolidation or merger of the Company with another corporation, or the sale of all or substantially all of its assets or other transaction shall be effected in such a way that holders of Common Stock shall be entitled to receive stock, securities, or other assets or property (an "**Organic Change**"), then, as a condition of such Organic Change, lawful and adequate provisions shall be made by the Company whereby the Holder hereof shall thereafter have the right to purchase and receive on conversion (in lieu of the shares of the Common Stock of the Company immediately theretofore purchasable and receivable upon conversion of this Note) such shares of stock, securities or other assets or property as shall be equivalent in value to the securities issuable to the Holder upon conversion immediately prior to the Organic Change.

7.13 Waiver of Jury Trial. EACH PARTY HEREBY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE, THE SECURITIES OR THE SUBJECT MATTER HEREOF OR THEREOF. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS (INCLUDING NEGLIGENCE), BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. THIS SECTION HAS BEEN FULLY DISCUSSED BY EACH OF THE PARTIES HERETO AND THESE PROVISIONS WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY HERETO HEREBY FURTHER REPRESENTS AND WARRANTS THAT SUCH PARTY HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

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IN WITNESS WHEREOF, the Company has caused Note to be signed in its name by an authorized officer as of the date first set forth above.

**Odyssey Semiconductor  
Technologies, Inc.**

By: \_\_\_\_\_  
Name: Mark Davidson  
Title: Chief Executive Officer

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## **EXHIBIT B**

### **RISK FACTORS**

*Investing in the Bridge Notes involves a high degree of risk. You should carefully consider the risks below before deciding whether to invest in the Bridge Notes. Our business, financial performance or results of operations could be materially adversely affected by any of these risks. If any of the possible events described below actually occur, our business, business prospects, cash flow, results of operations or financial condition could be harmed. In such an event, you may lose all or part of your investment.*

*The following is a discussion of the risk factors that we believe are material to us at this time. These risks and uncertainties are not the only ones facing us and there may be additional matters that we are unaware of or that we currently consider immaterial. All of these could adversely affect our business, results of operations, financial condition and cash flows.*

#### **Risks Related to Our Business**

##### **Risks Relating to Our Business, Growth Prospects and Operating Results**

*We face risks related to health epidemics and other outbreaks, which could significantly disrupt our operations and could have a material adverse impact on us. The recent coronavirus outbreak could materially and adversely affect our business.*

An outbreak of a new respiratory illness caused by coronavirus disease 2019 ("COVID-19") has resulted in millions of infections and hundreds of thousands of deaths worldwide as of the date of filing of this prospectus, and continues to spread across the globe, including within the United States. The outbreak of COVID-19 or by other epidemics could materially and adversely affect our business, financial condition and results of operations. If the spread of the virus worsens in regions in which we have material operations or sales, our business activities originating from affected areas, including sales, manufacturing and supply chain related activities, and could be adversely affected. Disruptive activities could include the temporary closure of our facilities and those used in our supply chain processes, restrictions on the shipment of our products, business closures in impacted areas, and restrictions on our employees' and consultants' ability to travel and to meet with customers. If workers at one or more of our offices or the offices of our suppliers or manufacturers become ill or are quarantined and in either or both events are therefore unable to work, our operations could be subject to disruption. Further, if our manufacturers become unable to obtain necessary raw materials or components, we may incur higher supply costs or our manufacturers may be required to reduce production levels, either of which may negatively affect our financial condition or results of operations.

As events are rapidly changing, we do not know how long the COVID-19 pandemic and the measures that have been introduced to respond to it will disrupt our operations or the full extent of that disruption. Further, once we are able to restart normal business hours and operations doing so may take time and will involve costs and

uncertainty. We also cannot predict how long the effects of COVID-19 and the efforts to contain it will continue to impact our business after the pandemic is under control. Governments could take additional restrictive measures to combat the pandemic that could further impact our business or the economy in the geographies in which we operate. It is also possible that the impact of the pandemic and response on our suppliers, customers and markets will persist for some time after governments ease their restrictions. These measures have negatively impacted, and may continue to impact, our business and financial condition as the responses to control COVID-19 continue.

***We are recently formed and are currently operating at a loss. Our lack of operating history makes it difficult to evaluate our business and prospects and may increase the risks associated with an investment in our shares of Common Stock.***

The Company was recently formed in 2019 and is currently operating at a loss. Therefore, the Company is subject to the risks involved with any speculative early-stage enterprise. There is no assurance that the Company will successfully offer, market and distribute its products or services. The Company may continue to experience net losses and negative cash flows from operations or become only marginally profitable. The time required to reach substantial profitability is highly uncertain. There is no assurance that the Company will be able to achieve substantial profitability or that profitability, if achieved, can be sustained on an ongoing basis. There is no assurance that actual cash requirements will not exceed our estimates. Such risks for the Company include, but are not limited to:

- an evolving, unpredictable and unproven business model;
- an intensely competitive developing market;
- rapidly changing technology and unpredictable characteristics of materials and processes;
- managing growth;
- dependence on key personnel;
- limited operating capital and limited access to credit; and
- other unforeseen changes and developments.

In order to address these risks, the Company must, among other things:

- implement and successfully execute its business strategy;
- provide superior customer service;
- respond to competitive developments;
- attract, retain and motivate qualified personnel; and
- respond to unforeseen and changing circumstances.

The Company cannot assure investors that it will succeed in addressing these risks.

***Our business depends substantially on the continuing efforts of our executive officers and our business may be severely disrupted if we lose their services.***

Our future success depends substantially on the continued services of our executive officers. We do not maintain key man life insurance on any of our executive officers and directors. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Under such circumstances our business may be severely disrupted and we may incur additional expenses attempting to recruit and retain new officers.

***We may be unable to attract and retain highly skilled personnel.***

Our success depends on our ability to attract, motivate and retain highly skilled personnel, including research, technical, marketing, management and staff personnel. In the semiconductor industry, the competition for qualified personnel, particularly experienced design engineers and other technical employees, is intense, particularly when the business cycle is improving. During such periods, competitors may try to recruit our most valuable technical employees. Moreover, there can be no assurance that we will be able to retain our current personnel or recruit the key personnel we require. Loss of the services of, or failure to effectively recruit, qualified personnel, including senior managers, could have a material adverse effect on our competitive position and on our business.

***There may be limitations on the effectiveness of our internal controls. Failure of our internal control over financial reporting could harm our business and financial results.***

Proper systems of internal controls over financial accounting and disclosure are critical to the operation of a public company. Our management is responsible for establishing and maintaining effective internal control over financial reporting. Internal control over financial reporting is a process to provide reasonable assurance regarding the reliability of financial reporting for external purposes in accordance with accounting principles generally accepted in the United States. Internal control over financial reporting includes maintaining records that in reasonable detail accurately and fairly reflect our transactions; providing reasonable assurance that transactions are recorded as necessary for preparation of the financial statements; providing reasonable assurance that receipts and expenditures of our assets are made in accordance with management authorization; and providing reasonable assurance that unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements would be prevented or detected on a timely basis. Any failure to maintain an effective system of internal control over financial reporting could limit our ability to report our financial results accurately and timely or to detect and prevent fraud.

We do not expect that disclosure controls or internal control over financial reporting, even if established, will prevent all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. Failure of our control systems to prevent error or fraud could materially adversely impact us.

We are a small organization and we do not have a Chief Financial or Accounting Officer. In connection with the preparation of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, our management carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures and concluded that our disclosure controls and procedures were not effective as of December 31, 2021 to cause the information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods prescribed by SEC, and that such information is accumulated and communicated to management to allow timely decisions regarding required disclosure. In addition, management determined that our internal control over financial reporting were not operating effectively as of December 31, 2021 because we do not have a Chief Financial or Accounting Officer which is identified by management as a material weaknesses in our internal control over financial reporting. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that a reasonable possibility exists that a material misstatement of our annual or interim financial statements would not be prevented or detected on a timely basis.



***We may be unable to complete our analysis of our internal controls over financial reporting in a timely manner, or these internal controls may not be determined to be effective, which may adversely affect investor confidence in our company and, as a result, the value of our Common Stock.***

We are required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by our management on, among other things, the effectiveness of our internal control over financial reporting for each fiscal year. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting, as well as a statement that our independent registered public accounting firm has issued an opinion on our internal control over financial reporting.

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Since we are unable to assert that our internal control over financial reporting is effective (and when applicable, our independent registered public accounting firm may be unable to express an opinion on the effectiveness of our internal controls), we could lose investor confidence in the accuracy and completeness of our financial reports, which would cause the price of our Common Stock to decline, and we may be subject to investigation or sanctions by the SEC. We will also be required to disclose changes made in our internal control and procedures on a quarterly basis.

However, our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 until the date we are no longer an “emerging growth company” as defined in the recently enacted JOBS Act, if we continue to take advantage of the exemptions contained in the JOBS Act. We will remain an “emerging growth company” for up to five years, although if the market value of our Common Stock that is held by non-affiliates exceeds \$700 million as of any June 30 before that time, we would cease to be an “emerging growth company” as of the following December 30.

At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating. Our remediation efforts may not enable us to avoid a material weakness in our internal control over financial reporting in the future. Any of the foregoing occurrences, should they come to pass, could negatively impact the public perception of our company, which could have a negative impact on our stock price.

***Our management team has limited experience managing a public company.***

Most members of our management team have limited experience managing a publicly-traded company, interacting with public company investors and complying with the increasingly complex laws pertaining to public companies. Our management team may not successfully or efficiently manage the Company as a public company subject to significant regulatory oversight and reporting obligations under the federal securities laws and the continuous scrutiny of securities analysts and investors. These obligations and constituents will require significant attention from our senior management and could divert their attention away from the day-to-day management of our business, which could adversely affect our business, financial condition and operating results.

***We depend on a limited number of customers and the loss of one or more of these customers could have a material adverse effect on our business, financial condition and results of operations.***

During the period ended September 30, 2022, all of our revenues were generated from two customers. During the year ended December 31, 2021, approximately 56% of our revenues were generated from two governmental entities, our contracts with which both expired in 2021. No other client accounted for more than 10% of revenues.

Due to the concentration of revenues from a limited number of customers, if we do not receive the payments expected from any of these major customers, our revenue, results of operation and financial condition will be negatively impacted.

In addition, we cannot assure that any of our customers in the future will not cease purchasing products or services from us in favor of products or services produced by other suppliers, significantly reduce orders or seek price reductions in the future, and any such event could have a material adverse effect on our revenue, profitability, and results of operations.

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Furthermore, if a significant portion of our revenue is derived from customers in certain industries, a downturn or lower sales to customers in such industries could materially adversely affect our business and results of operations.

***If we do not have access to capital on favorable terms, on the timeline we anticipate, or at all, our financial condition and results of operations could be materially adversely affected.***

We currently anticipate that our current cash on hand, grant revenue and customer payments will be insufficient to fund our operations for the next 12 months. In addition, we anticipate that we will routinely incur significant costs to conduct research and development, implement new manufacturing and information technologies, to increase our productivity and efficiency, to upgrade equipment and to expand production capacity. There can be no assurance that we will realize a return on the capital expended. We also anticipate incurring material amounts of debt to fund these requirements in the future. Significant volatility or disruption in the global financial markets may result in us not being able to obtain additional financing on favorable terms, on the timeline we anticipate, or at all, and we may not be able to refinance, if necessary, any outstanding debt when due, all of which could have a material adverse effect on our financial condition. We currently have no commitments for any additional capital and there can be no assurance that we will receive any such commitments, or that any commitments for capital will be on terms that are acceptable to us. Any inability to obtain additional funding on favorable terms, on the timeline we anticipate, or at all, may cause us to curtail our operations significantly, reduce planned capital expenditures and research and development, or obtain funds through arrangements that management does not currently anticipate, including disposing of our assets and relinquishing rights to certain technologies, the occurrence of any of which may significantly impair our ability to remain competitive. If our operating results falter, our cash flow or capital resources prove inadequate, or if interest rates increase significantly, we could face liquidity problems that could materially and adversely affect our results of operations and financial condition.

***If our estimates related to expenditures and/or expected revenue are inaccurate, our business may fail.***

The success of our business is dependent in part upon the accuracy of our management’s estimates of new capital, expenditures and revenue for the next 12 months and beyond. If such estimates are inaccurate, we do not raise additional capital or we encounter unforeseen expenses and delays or significant unexpected reduction of revenue, we may not be able to carry out our business plan, which could result in the failure of our business.

***If the Company cannot effectively manage growth by implementing and improving its operational and financial systems, the Company’s business, prospects, financial condition and results of operations could be materially adversely affected.***

In order to maximize the potential growth in the Company’s market opportunities, the Company may have to expand rapidly and significantly. The impetus for

expansion could place a significant strain on the management, operational and financial resources of the Company. In order to manage growth, the Company will be required to implement and continually improve its operational and financial systems, expand operations, attract and retain superior management and train, manage and expand its employee base. The Company can give no assurance that it will effectively manage its operations that its system, procedures, or controls will adequately support operations or that management of the Company will successfully implement its business plan. If the Company cannot effectively manage growth, the Company's business, prospects, financial condition and results of operations could be materially adversely affected.

***We may not obtain insurance coverage to adequately cover all significant risk exposures.***

We will be exposed to liabilities that are unique to the products we provide. There can be no assurance that we will acquire or maintain insurance for certain risks, that the amount of our insurance coverage will be adequate to cover all claims or liabilities, or that we will not be forced to bear substantial costs resulting from risks and uncertainties of business. It also may not be possible to obtain insurance to protect against all operational risks and liabilities. The failure to obtain adequate insurance coverage on terms favorable to us, or at all, could have a material adverse effect on our business, financial condition and results of operations.

***If product liability lawsuits are brought against us, we may incur substantial liabilities.***

We face a potential risk of product liability as a result of any of the products that we develop, manufacture and/or offer for sale. For example, we may be sued if any product we develop, manufacture and/or sell allegedly causes injury or is found to be otherwise unsuitable during product testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability and a breach of warranties. Claims could also be asserted under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for products that we may offer for sale;
- injury to our reputation;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients; and
- product recalls, withdrawals or labeling, marketing or promotional restrictions.

We currently do not maintain any product liability insurance. We may obtain product liability insurance in the future. However, there is no guarantee that we will be able to obtain product liability insurance or that such insurance will be affordable or sufficient. If we are unable to obtain or retain sufficient product liability insurance coverage, it could prevent or inhibit the commercialization of products we develop. Even if we obtain product liability insurance in the future, we may have to pay amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts.

***Warranty claims, product liability claims and product recalls could harm our business, results of operations and financial condition.***

Manufacturing semiconductors is a highly complex and precise process, requiring production in a tightly controlled, clean environment. Minute impurities in our manufacturing materials, contaminants in the manufacturing environment, manufacturing equipment failures, and other defects can cause our products to be non-compliant with customer requirements or otherwise nonfunctional. We face an inherent business risk of exposure to warranty and product liability claims in the event that our products fail to perform as expected or such failure of our products results, or is alleged to result, in bodily injury or property damage (or both). In addition, if any of our designed products are or are alleged to be defective, we may be required to participate in their recall. A successful warranty or product liability claim against us in excess of our available insurance coverage, if any, and established reserves, or a requirement that we participate in a product recall, could have material adverse effects on our business, results of operations and financial condition. Additionally, in the event that our products fail to perform as expected or such failure of our products results in a recall, our reputation may be damaged, which could make it more difficult for us to sell our products to existing and prospective customers and could materially adversely affect our business, results of operations and financial condition.

Since a defect or failure in our product could give rise to failures in the goods that incorporate them (and claims for consequential damages against our customers from their customers), we may face claims for damages that are disproportionate to the revenue and profits we receive from the products involved. We plan to attempt to limit our liability through our standard terms and conditions of sale and other customer contracts in certain instances; however, there is no assurance that such limitations will be effective. To the extent that we are liable for damages in excess of the revenue and profits we received from the products involved, our results of operations and financial condition could be materially adversely affected.

***A significant product defect or product recall could materially and adversely affect our brand image, causing a decline in our sales and profitability, and could reduce or deplete our financial resources.***

Provided we are successful in developing and selling our products, any product defect could materially harm our brand image and could force us to conduct a product recall. This could damage our relationships with our customers. A product recall would be particularly harmful to us because we will likely have limited financial and administrative resources to effectively manage a product recall and it would detract management's attention from implementing our core business strategies. As a result, a significant product defect or product recall could cause a decline in our sales and profitability and could reduce or deplete our financial resources.

***We will be dependent on the services of third-party suppliers and contract manufacturers, and any disruption in or deterioration of the quality of the services delivered by such third parties could materially adversely affect our business and results of operations.***

We plan to use third-party contractors for certain of our manufacturing activities. Our agreements with these manufacturers may require us to commit to purchase services based on forecasted product needs, which may be inaccurate, and, in some cases, require longer-term commitments. We may be also dependent upon a limited number of highly specialized third-party suppliers for required components and materials for certain of our key technologies. Arranging for replacement manufacturers and suppliers can be time consuming and costly, and the number of qualified alternative providers can be extremely limited. Our business operations, productivity and customer relations could be materially adversely affected if these contractual relationships were disrupted or terminated, the cost of such services increased significantly, the quality of the services provided deteriorated or our forecasted needs proved to be materially incorrect.

***Natural disasters, health epidemics and other business disruptions could cause significant harm to our business operations and facilities and could adversely affect our supply chain and our customer base, any of which may materially adversely affect our business, results of operation, and financial condition.***

We expect that our manufacturing and other facilities, as well as the operations of our third-party suppliers, are susceptible to losses and interruptions caused by floods, hurricanes, earthquakes, typhoons, and similar natural disasters, as well as power outages, telecommunications failures, industrial accidents, war, riots, terrorist attacks and similar events. The occurrence of natural disasters and other calamities in any of the regions in which we or our suppliers will operate could severely disrupt the operations of our businesses by negatively impacting our supply chain, our ability to deliver products, and the cost of our products. Such events can negatively impact revenue and earnings and can significantly impact cash flow, both from decreased revenue and from increased costs associated with the event. In addition, these events could cause consumer confidence and spending to decrease.

On February 24, 2022, the Russian Federation launched an invasion of Ukraine that has had an immediate impact on the global economy resulting in higher energy prices and higher prices for certain raw materials and goods and services which in turn is contributing to higher inflation in the United States and other countries across the globe with significant disruption to financial markets. We do not have any operation or business in Russia or Ukraine; however, we may potentially be indirectly adversely impacted by any significant disruption to the global economy it has caused and may continue to escalate.

We may in the future carry insurance to generally compensate for losses of the type noted above, however, even if we obtain such insurance it may not be adequate to cover all losses that may be incurred or continue to be available in the affected area at commercially reasonable rates and terms. To the extent any losses from natural disasters or other business disruptions are not covered by insurance, any costs, write-downs, impairments and decreased revenue can materially adversely affect our business, our results of operations and our financial condition.

***We may be subject to litigation from time to time during the normal course of business, which may adversely affect our business, financial condition and results of operations.***

From time to time in the normal course of business or otherwise, we may become subject to litigation that may result in liability material to our financial statements as a whole or may negatively affect our operating results if changes to business operation are required. The cost to defend such litigation may be significant and may require a diversion of our resources. There also may be adverse publicity associated with litigation that could negatively affect customer perception of our products and business, regardless of whether the allegations are valid or whether we are ultimately found liable. As a result, litigation may adversely affect our business, financial condition and results of operations.

***There is no assurance on the future successful completion of strategic transactions by us to successfully implement our business strategies.***

Our ability to complete future strategic transactions could be important to the successful implementation of our business strategies, including our strategies to strengthen our geographic diversity and broaden its customer base. Successful completion of an acquisition or other similar transaction depends on a number of factors that are not entirely within our control, including our ability to negotiate acceptable terms, conclude satisfactory agreements and obtain all necessary regulatory approvals. In seeking to acquire a target company, we may face competition from other companies interested in acquiring the target company that have significantly greater financial and other resources than us. If we need to finance a transaction, we may not be able to obtain the necessary financing on satisfactory terms and within the timeframe that would permit the transaction to proceed. If any of these factors prevents us from completing one or more strategic transactions, we may not be able to expand our business in the manner and on the schedule that we plan. In addition, we may incur significant costs arising from our efforts to engage in strategic transactions. These costs may exceed the returns that we realize from a given transaction. Moreover, these expenditures may not result in the successful completion of a transaction.

Even if we complete one or more strategic transactions, we may be unable to integrate successfully the personnel and operations of a new business or achieve the operational synergies or other benefits that we had anticipated. Moreover, we might fail to discover liabilities of a business or operating or other problems prior to completing a transaction. We could experience adverse accounting and financial consequences, such as the need to make large provisions against the acquired assets or to write down acquired assets. We might also experience a dilutive effect on our earnings. Depending on how any such transaction is structured, there may be an adverse impact on our capital structure. Further, an acquisition could disrupt our ongoing business, distract management and employees or lead to increased expenses.

## **Risks Related to the Semiconductor Industry**

***Our products are based on novel Gallium Nitride (GaN) processing technology, which makes it difficult to predict the time and cost of product development.***

Our products are based on novel GaN processing technology. Our future success depends on the successful development of high-voltage power switching components and systems based on GaN processing technology. There can be no assurance that any development problems we experience in the future related to our products will not cause significant delays or unanticipated costs, or that such development problems can be solved. We may also experience delays in developing a sustainable, reproducible and manufacturing process, which may prevent us from commercializing our products on a timely or profitable basis, if at all.

***The semiconductor industry is highly competitive, and our inability to compete effectively could materially adversely affect our business and results of operations.***

The semiconductor industry is highly competitive, and our ability to compete successfully depends on elements both within and outside of our control. We will face significant competition from major global semiconductor companies as well as smaller companies focused on specific market niches. In addition, companies not currently in direct competition with us may introduce competing products in the future.

Our inability to compete effectively could materially adversely affect our business and results of operations. Products or technologies developed by competitors that are larger and have more substantial research and development budgets, or that are smaller and more targeted in their development efforts, may render our products or technologies obsolete or noncompetitive. We also may be unable to market and sell our products if they are not competitive on the basis of price, quality, technical performance, features, system compatibility, customized design, innovation, availability, delivery timing and reliability. If we fail to compete effectively on developing strategic relationships with customers and customer sales and technical support, our sales and revenue may be materially adversely affected. Competitive pressures may limit our ability to raise prices, and any inability to maintain revenue or raise prices to offset increases in costs could have a significant adverse effect on our gross margin. Reduced sales and lower gross margins would materially adversely affect our business and results of operations.

***The semiconductor industry has experienced rapid consolidation and our inability to compete with large competitors or failure to identify attractive opportunities to consolidate may materially adversely affect our business.***

The semiconductor industry is characterized by the high costs associated with developing marketable products and manufacturing technologies as well as high levels of investment in production capabilities. As a result, the semiconductor industry has experienced, and may continue to experience, significant consolidation among companies and vertical integration among customers. Larger competitors resulting from consolidations may have certain advantages over us, including, but not limited to: substantially greater

financial and other resources with which to withstand adverse economic or market conditions and pursue development, engineering, manufacturing, marketing and distribution of their products; longer independent operating histories; presence in key markets; patent protection; and greater name recognition. In addition, we may be at a competitive disadvantage to our peers if we fail to identify attractive opportunities to acquire companies to expand our business. Consolidation among our competitors and integration among our customers could erode our market share, negatively impact our capacity to compete and require us to restructure our operations, any of which would have a material adverse effect on our business.

***Downturns or volatility in general economic conditions could have a material adverse effect on our business and results of operations.***

In recent years, worldwide semiconductor industry sales have tracked the impact of the financial crisis, subsequent recovery and persistent economic uncertainty. We believe that the state of economic conditions in the United States is particularly uncertain due to the global pandemic as well as recent and expected shifts in legislative and regulatory conditions concerning, among other matters, international trade and taxation, and that an uneven recovery or a renewed global downturn may put pressure on our sales due to reductions in customer demand as well as customers deferring purchases. Volatile and/or uncertain economic conditions can adversely impact sales and profitability and make it difficult for us and our competitors to accurately forecast and plan our future business activities. To the extent we incorrectly plan for favorable economic conditions that do not materialize or take longer to materialize than expected, we may face oversupply of our products relative to customer demand. Reduced customer spending may in the future drive us and our competitors, to reduce product pricing, which will result in a negative effect on gross profit. Moreover, volatility in revenue as a result of unpredictable economic conditions may alter our anticipated working capital needs and interfere with our short-term and long-term strategies. To the extent that our sales, profitability and strategies are negatively affected by downturns or volatility in general economic conditions, our business and results of operations may be materially adversely affected.

***The semiconductor industry is highly cyclical, and significant downturns or upturns in customer demand can materially adversely affect our business and results of operations.***

The semiconductor industry is highly cyclical and, as a result, is subject to significant downturns and upturns in customer demand for semiconductors and related products. We cannot accurately predict the timing of future downturns and upturns in the semiconductor industry or how severe and prolonged these conditions might be. Significant downturns often occur in connection with, or in anticipation of, maturing product cycles (for semiconductors and for the end-user products in which they are used) or declines in general economic conditions and can result in reduced product demand, production overcapacity, high inventory levels and accelerated erosion of average selling prices, any of which could materially adversely affect our operating results as a result of increased operating expenses outpacing decreased revenue, reduced margins, underutilization of our manufacturing capacity and/or asset impairment charges. On the other hand, significant upturns can cause us to be unable to satisfy demand in a timely and cost efficient manner. In the event of such an upturn, we may not be able to expand our workforce and operations in a sufficiently timely manner, procure adequate resources and raw materials, or locate suitable third-party suppliers to respond effectively to changes in demand for our existing products or to the demand for new products requested by our customers, and our business and results of operations could be materially and adversely affected.

***Rapid innovation and short product life cycles in the semiconductor industry can result in price erosion of older products, which may materially adversely affect our business and results of operations.***

The semiconductor industry is characterized by rapid innovation and short product life cycles, which often results in price erosion, especially with respect to products containing older technology. Products are frequently replaced by more technologically advanced substitutes and, as demand for older technology falls, the price at which such products can be sold drops, in some cases precipitously. In addition, our and our competitors' excess inventory levels can accelerate general price erosion.

***Shortages or increased prices of raw materials could materially adversely affect our results of operations.***

Our manufacturing processes will rely on many raw materials. Generally, we expect that our agreements with suppliers of raw materials will impose no minimum or continuing supply obligations, and we will obtain our raw materials and supplies from a large number of sources on a just-in-time basis. From time to time, suppliers of raw materials may extend lead times, limit supplies or increase prices due to capacity constraints or other factors beyond our control. Shortages could occur in various essential raw materials due to interruption of supply or increased demand. If we are unable to obtain adequate supplies of raw materials in a timely manner, the costs of our raw materials increase significantly, their quality deteriorates or they give rise to compatibility or performance issues in our products, our results of operations could be materially adversely affected.

***Our facilities and processes may be interdependent and an operational disruption at any particular facility could have a material adverse effect on our ability to produce our products, which would materially adversely affect our business and results of operations.***

We may utilize an integrated manufacturing platform in which multiple facilities may each produce one or more components necessary for the assembly of a single product. If we do, an operational disruption at a facility toward the front-end of our manufacturing process may have a disproportionate impact on our ability to produce our products. For example, if our multiple facilities rely predominantly on one third-party for manufacturing at the front-end of its manufacturing process, in the event of any operational disruption, natural or man-made disaster or other extraordinary event at such third-party facility, we may be unable to effectively source replacement components on acceptable terms from qualified third parties, in which case our ability to produce our products could be materially disrupted or delayed.

Conversely, if our facilities are single source facilities that only produce one of our end-products, a disruption at any such facility would materially delay or cease production of the related product. In the event of any such operational disruption, we may experience difficulty in beginning production of replacement components or products at new facilities (for example, due to construction delays) or transferring production to other existing facilities (for example, due to capacity constraints or difficulty in transitioning to new manufacturing processes), any of which could result in a loss of future revenues and materially adversely affect our business and results of operations.

***If we are unable to protect the intellectual property we use, our business, results of operations and financial condition could be materially adversely affected.***

The enforceability of any patents, trademarks, copyrights, software licenses and other intellectual property ("IP") we own may be uncertain in certain circumstances. Effective IP protection may be unavailable, limited or not applied for in the U.S. and internationally. The various laws and regulations governing registered and unregistered IP assets, patents, trade secrets, trademarks, mask works and copyrights to protect products and technologies are subject to legislative and regulatory change and interpretation by courts. With respect to our IP generally, we cannot assure you that:

- any of the U.S. or foreign patents and pending patent applications that we may employ in our business will not lapse or be invalidated, circumvented, challenged, abandoned or licensed to others;
- any of our pending or future patent applications will be issued or have the coverage originally sought;

- any of the trademarks, copyrights, trade secrets, know-how or mask works that we employ or will employ in our business will not lapse or be invalidated, circumvented, challenged, abandoned or licensed to others; or
- any of our pending or future trademark, copyright, or mask work applications will be issued or have the coverage originally sought.

If we seek to enforce our rights, we may be subject to claims that the IP right is invalid, is otherwise not enforceable or is licensed to the party against whom we are asserting a claim. In addition, our assertion of IP rights may result in the other party seeking to assert alleged IP rights of its own against us, which may materially adversely impact our business. An unfavorable ruling in these sorts of matters could include money damages or an injunction prohibiting us from manufacturing or selling one or more products, which could in turn negatively affect our business, results of operations or cash flows.

In addition, some of our products and technologies may not be covered by any patents or pending patent applications. We intend to protect our proprietary technologies, including technologies that may not be patented or patentable, in part by confidentiality agreements and, if applicable, inventors' rights agreements with our collaborators, advisors, employees and consultants. We cannot assure you that these agreements will not be breached, that we will have adequate remedies for any breach or that persons or institutions will not assert rights to IP arising out of our research. Should we be unable to protect our IP, competitors may develop products or technologies that duplicate our products or technologies, benefit financially from innovations for which we bore the costs of development and undercut the sales and marketing of our products, all of which could have a material adverse effect on our business, results of operations and financial condition.

***If our technologies are subject to claims of infringement on the intellectual property rights of third parties, efforts to address such claims could have a material adverse effect on our results of operations.***

We may from time to time be subject to claims that we may be infringing third-party IP rights. If necessary or desirable, we may seek licenses under such IP rights. However, we cannot assure you that we will obtain such licenses or that the terms of any offered licenses will be acceptable to us. The failure to obtain a license from a third-party for IP we use could cause us to incur substantial liabilities or to suspend the manufacture or shipment of products or our use of processes requiring such technologies. Further, we may be subject to IP litigation, which could cause us to incur significant expense, materially adversely affect sales of the challenged product or technologies and divert the efforts of our technical and management personnel, whether or not such litigation is resolved in our favor. In the event of an adverse outcome in any such litigation, we may be required to:

- pay substantial damages;
- indemnify customers or distributors;
- cease the manufacture, use, sale or importation of infringing products;
- expend significant resources to develop or acquire non-infringing technologies;
- discontinue the use of processes; or
- obtain licenses, which may not be available on reasonable terms, to the infringing technologies.

The outcome of IP litigation is inherently uncertain and, if not resolved in our favor, could materially and adversely affect our business, financial condition and results of operations.

***We may be unable to maintain manufacturing efficiency, which could have a material adverse effect on our results of operations.***

We believe that our success will materially depend on our ability to maintain or improve our margin levels related to manufacturing. Semiconductor manufacturing requires advanced equipment and significant capital investment, leading to high fixed costs, which include depreciation expense. Manufacturing semiconductor components also involves highly complex processes that we and our competitors are continuously modifying to improve yields and product performance. In addition, impurities, waste or other difficulties in the manufacturing process can lower production yields. Our manufacturing efficiency will be an important factor in our future profitability, and we cannot assure you that we will be able to manufacture efficiently, increase manufacturing efficiency to the same extent as our competitors, or be successful in our manufacturing rationalization plans. If we are unable to utilize manufacturing and testing facilities at expected levels, or if production capacity increases while revenue does not, the fixed costs and other operating expenses associated with these facilities will not be fully absorbed, resulting in higher average unit costs and lower gross profits, which could have a material adverse effect on our results of operations.

***The failure to successfully implement cost reduction initiatives, including through restructuring activities, could materially adversely affect our business and results of operations.***

From time to time, we may implement cost reduction initiatives in response to significant downturns in our industry, including relocating manufacturing to lower cost regions, transitioning higher-cost external supply to internal manufacturing, working with our material suppliers to lower costs, implementing personnel reductions and voluntary retirement programs, reducing employee compensation, temporary shutdowns of facilities with mandatory vacation and aggressively streamlining our overhead.

We cannot assure you that any cost reduction initiatives will be successfully or timely implemented or that they will materially and positively impact profitability.

***If we are unable to identify and make the substantial research and development investments required to remain competitive in our business, our business, financial condition and results of operations may be materially adversely affected.***

The semiconductor industry requires substantial investment in research and development in order to develop and bring to market new and enhanced technologies and products. The development of new products is a complex and time-consuming process and often requires significant capital investment and lead time for development and testing. We cannot assure you that we will have sufficient resources to maintain the level of investment in research and development that is required to remain competitive.

In addition, the lengthy development cycle for our products will limit our ability to adapt quickly to changes affecting the product markets and requirements of our customers and end-users. There can be no assurance that we will win competitive bid selection processes, known as "design wins," for new products. In addition, design wins do not guarantee that we will make customer sales or that we will generate sufficient revenue to recover design and development investments, as expenditures for technology and product development are generally made before the commercial viability for such developments can be assured. There is no assurance that we will realize a return on the capital expended to develop new products, that a significant investment in new products will be profitable or that we will have margins as high as we anticipate at the time of investment or have experienced historically. To the extent that we underinvest in our research and development efforts, or that our investments and capital expenditures in research and development do not lead to sales of new products, we may be unable to bring to market technologies and products that are attractive to our customers, and as a result our business, financial condition and results of operations may be materially adversely affected.

***We may be unable to develop new products to satisfy changing customer demands or regulatory requirements, which may materially adversely affect our business and***

*results of operations.*

The semiconductor industry is characterized by rapidly changing technologies, evolving regulatory and industry standards and certifications, changing customer needs and frequent new product introductions. Our success will be largely dependent on our ability to accurately predict, identify and adapt to changes affecting the requirements of our customers in a timely and cost-effective manner. Additionally, the emergence of new industry or regulatory standards and certification requirements may adversely affect the demand for our products. We plan to focus our new product development efforts on market segments and applications that we anticipate will experience growth, but there can be no assurance that we will be successful in identifying high-growth areas or develop products that meet industry standards or certification requirements in a timely manner. A fundamental shift in technologies, the regulatory climate or consumption patterns and preferences in our existing product markets or the product markets of our customers or end-users could make our current products obsolete, prevent or delay the introduction of new products that we planned to make or render our current or new products irrelevant to our customers' needs. If our new product development efforts fail to align with the needs of our customers, including due to circumstances outside of our control like a fundamental shift in the product markets of our customers and end users or regulatory changes, our business and results of operations could be materially adversely affected.

***Uncertainties regarding the timing and amount of customer orders could lead to excess inventory and write-downs of inventory that could materially adversely affect our financial condition and results of operations.***

We expect that our sales will be typically made pursuant to individual purchase orders or customer agreements, and we do not expect to have long-term supply arrangements with our customers requiring a commitment to purchase. We expect that the agreements with our customers may allow them to cancel orders prior to shipment for standard products and, generally prior to start of production for custom products without incurring a penalty. We anticipate to routinely generate inventory based on customers' estimates of end-user demand for their products, which is difficult to predict. In times of under supply for certain products, some customers could respond by inflating their demand signals. As markets level off and supply capacity begins to match actual market demands, we could experience an increased risk of inventory write-downs, which may materially adversely affect our results of operations and our financial condition. In addition, our customers may change their inventory practices on short notice for any reason. Furthermore, short customer lead times are standard in the industry due to overcapacity. The cancellation or deferral of product orders, the return of previously sold products, or overproduction of products due to the failure of anticipated orders to materialize could result in excess obsolete inventory, which could result in write-downs of inventory or the incurrence of significant cancellation penalties under our arrangements with our raw materials and equipment suppliers. Unsold inventory, canceled orders and cancellation penalties may materially adversely affect our results of operations, and inventory write-downs, which may materially adversely affect our financial condition.

***Our customers may require our products to undergo a lengthy and expensive qualification process without any assurance of product sales.***

Prior to purchasing our products, our customers may require that our products undergo an extensive qualification process, which involves testing of the products in the customer's system as well as rigorous reliability testing. This qualification process may continue for a few months or longer. However, qualification of a product by a customer does not ensure any sales of the product to that customer. Even after successful qualification and sales of a product to a customer, a subsequent revision to the product or software, changes in the product's manufacturing process or the selection of a new supplier by us may require a new qualification process, which may result in delays and in us holding excess or obsolete inventory. After our products are qualified, it can take an additional few months or more before the customer commences volume production of components or devices that incorporate our products. Despite these uncertainties, we will devote substantial resources, including design, engineering, sales, marketing and management efforts, toward qualifying our products with customers in anticipation of sales. If we are unsuccessful or delayed in qualifying any of our products with a customer, such failure or delay would preclude or delay sales of such product to the customer, which may impede our growth and cause our business to suffer.

***Our potential future global operations may subject us to risks inherent in doing business on a global level that could adversely impact our business, financial condition and results of operations.***

We anticipate that a certain amount of our total revenue may be derived from countries outside of the United States, and we might maintain certain operations in these regions. In addition, we may rely on a number of contract manufacturers whose operations are primarily located in outside of the United States. Risks inherent in doing business on a global level include, among others, the following:

- economic and geopolitical instability (including as a result of the threat or occurrence of armed international conflict or terrorist attacks);
- changes in regulatory requirements, international trade agreements, tariffs, customs, duties and other trade barriers;
- licensing requirements for the import or export of certain products;
- exposure to different legal standards, customs, business practices, tariffs, duties and other trade barriers, including changes with respect to price protection, competition practices, IP, anti-corruption and environmental compliance, trade and travel restrictions, pandemics, import and export license requirements and restrictions, and accounts receivable collections;
- transportation and other supply chain delays and disruptions;
- power supply shortages and shutdowns;
- difficulties in staffing and managing foreign operations, including collective bargaining agreements and workers councils, exposure to foreign labor laws and other employment and labor issues;
- currency fluctuations;
- currency convertibility and repatriation;
- taxation of our earnings and the earnings of our personnel;
- limitations on the repatriation of earnings and potential additional taxation of foreign profits in the U.S.;
- potential violations by our international employees or third-party agents of international or U.S. laws relevant to foreign operations (e.g., the Foreign Corrupt Practices Act ("FCPA"));
- difficulty in enforcing intellectual property rights;
- other risks relating to the administration of or changes in, or new interpretations of, the laws, regulations and policies of the jurisdictions in which we conduct our business; and
- the effect that the global pandemic has on the countries in which we may contract to do business.

We cannot assure you that we will be successful in overcoming the risks that relate to or arise from operating in international markets, the materialization of any of which could materially adversely affect our business, financial condition and results of operations.

***Changes in tariffs or other government trade policies may materially adversely affect our business and results of operations, including by reducing demand for our products.***

The imposition of tariffs and trade restrictions as a result of international trade disputes or changes in trade policies may adversely affect our sales and profitability. For

example, the U.S. government imposed, among other actions, new or higher tariffs on specified imported products originating from China in response to what it characterizes as unfair trade practices, and China has responded by imposing and proposing new or higher tariffs on specified products including some semiconductors fabricated in the United States. There can be no assurance that a broader trade agreement will be successfully negotiated between the United States and China to reduce or eliminate these tariffs. These tariffs, and the related geopolitical uncertainty between the United States and China, may cause decreased end-market demand for our products from distributors and other customers, which could have a material adverse effect on our business and results of operations. For example, certain of our future foreign customers may respond to the imposition of tariffs or threat of tariffs on products we produce by delaying purchase orders, purchasing products from our competitors or developing their own products. Ongoing international trade disputes and changes in trade policies could also impact economic activity and lead to a general contraction of customer demand. In addition,

tariffs on components that we may import from China or other nations that have imposed, or may in the future impose, tariffs will adversely affect our profitability unless we are able to exclude such components from the tariffs or we raise prices for our products, which may result in our products becoming less attractive relative to products offered by our competitors. Future actions or escalations by either the United States or China that affect trade relations may also impact our business, or that of our suppliers or customers, and we cannot provide any assurances as to whether such actions will occur or the form that they may take. To the extent that our sales or profitability are negatively affected by any such tariffs or other trade actions, our business and results of operations may be materially adversely affected.

***Changes in government trade policies could limit our ability to sell our products to certain customers, which may materially adversely affect our sales and results of operations.***

The U.S. Congress or U.S. regulatory authorities may take administrative, legislative or regulatory action that could materially interfere with our ability to make sales, particularly in China. We could experience unanticipated restrictions on our ability to sell to certain foreign customers where sales of products and the provision of services may require export licenses or are prohibited by government action. For example, the U.S. Department of Commerce could ban the export of U.S. products to foreign customers. The terms and duration of any such restrictions may not be known to us in advance and may be subject to ongoing modifications. Even to the extent such restrictions are subsequently lifted, any financial or other penalties imposed on affected foreign customers could have a negative impact on future orders. Such foreign customers may also respond to sanctions or the threat of sanctions by developing their own solutions or adopting alternative solutions or competitors' solutions. The loss or temporary loss of customers as a result of such future regulatory limitations could materially adversely affect our sales, business and results of operations.

***Environmental and health and safety liabilities and expenditures could materially adversely affect our results of operations and financial condition.***

Our future manufacturing operations may be subject to various environmental laws and regulations relating to the management, disposal and remediation of hazardous substances and the emission and discharge of pollutants into the air, water and ground, and we may be identified as either a primary responsible party or a potentially responsible party at sites where we or our predecessors operated or disposed of waste in the past. Our operations may also be subject to laws and regulations relating to workplace safety and worker health, which, among other requirements, regulate employee exposure to hazardous substances. We do not currently maintain environmental insurance to cover certain claims related to historical contamination and future releases of hazardous substances. Moreover, we cannot assure you that even if such insurance is purchased, that it will cover any or all of our material environmental costs. In addition, the nature of our future operations may expose us to the continuing risk of environmental and health and safety liabilities including:

- changes in U.S. and international environmental or health and safety laws or regulations, including, but not limited to, future laws or regulations imposed in response to climate change concerns;
- the manner in which environmental or health and safety laws or regulations will be enforced, administered or interpreted;
- our ability to enforce and collect under indemnity agreements and insurance policies relating to environmental liabilities;
- the cost of compliance with future environmental or health and safety laws or regulations or the costs associated with any future environmental claims, including the cost of clean-up of currently unknown environmental conditions; or
- the cost of fines, penalties or other legal liability, should we fail to comply with environmental or health and safety laws or regulations.

To the extent that we face unforeseen environmental or health and safety compliance costs or remediation expenses or liabilities that are not covered by insurance, we may bear the full effect of such costs, expense and liabilities, which could materially adversely affect our results of operations and financial condition.

***We may be subject to disruptions or breaches of our secured network that could irreparably damage our reputation and our business, expose us to liability and materially adversely affect our results of operations.***

We may routinely collect and store sensitive data, including IP and other proprietary information about our business and our customers, suppliers and business partners. The secure processing, maintenance and transmission of this information will be critical to our operations and business strategy. We may be subject to disruptions or breaches of our secured network caused by computer viruses, illegal hacking, criminal fraud or impersonation, acts of vandalism or terrorism or employee error. Our security measures and/or those of our third-party service providers and/or customers may not detect or prevent such security breaches. The costs to us to reduce the risk of or alleviate cyber security breaches and vulnerabilities could be significant, and our efforts to address these problems may not be successful and could result in interruptions and delays that may materially impede our sales, manufacturing, distribution or other critical functions. Any such compromise of our information security could result in the misappropriation or unauthorized publication of our confidential business or proprietary information or that of other parties with which we do business, an interruption in our operations, the unauthorized transfer of cash or other of our assets, the unauthorized release of customer or employee data or a violation of privacy or other laws. In addition, computer programmers and hackers also may be able to develop and deploy viruses, worms and other malicious software programs that attack our systems, or that otherwise exploit any security vulnerabilities, and any such attack, if successful, could expose us to liability to customer claims. Any of the foregoing could irreparably damage our reputation and business, which could have a material adverse effect on our results of operations.

***Sales through distributors and other third parties will expose us to risks that, if realized, could have a material adverse effect on our results of operations.***

We may sell a significant portion of our products through distributors. Distributors may sell products that compete with our products, and we may need to provide financial and other incentives to focus distributors on the sale of our products. We may rely on one or more key distributors for a product, and the loss of these distributors could reduce our revenue. Distributors may face financial difficulties, including bankruptcy, which could harm our collection of accounts receivable and financial results. Violations of the FCPA or similar laws by distributors or other third-party intermediaries could have a material impact on our business. Failure to manage risks related to our use of distributors may reduce sales, increase expenses, and weaken our competitive position, any of which could have a material adverse effect on our results of operations.

***The failure to comply with the terms and conditions of our contracts could result in, among other things, damages, fines or other liabilities.***

We expect to have a diverse customer base consisting of both private sector clients and public sector clients, including the U.S. government. Sales to our private sector clients are generally expected to be based on stated contractual terms, the terms and conditions on our website or terms contained in purchase orders on a transaction-by-

transaction basis. Sales to our public sector clients are generally expected to be derived from sales to federal, state and local governmental departments and agencies through various contracts and programs, which may require compliance with regulations covering many areas of our operations, including, but not limited to, accounting practices, IP rights, information handling, and security. Noncompliance with contract terms, particularly with respect to highly-regulated public sector clients, or with government procurement regulations could result in fines or penalties against us, termination of such contracts or civil, criminal and administrative liability to the Company. With respect to public sector clients, the government's remedies may also include suspension or debarment from future government business. The effect of any of these possible actions or the adoption of new or modified procurement regulations or practices could materially adversely affect our business, financial position and results of operations.

**Risks Related to Investment in Our Secured Convertible Promissory Notes (the "Bridge Notes")**

*Upon completion of the sale of the Bridge Notes, we will have significant debt obligations. The issuance of the Bridge Notes could also adversely affect our operating flexibility and put us at a competitive disadvantage by preventing us from capitalizing on business opportunities.*

As of September 30, 2022, we had commitments and contingencies of approximately \$2,530,329. These obligations could have important consequences to the holder of the Bridge Notes, including the following:

- making it more difficult for us to satisfy our obligations with respect to the Bridge Notes and our other debt;
- limiting our ability to obtain additional financing to fund future working capital, capital expenditures, strategic acquisitions or other general corporate requirements;
- requiring a substantial portion of our cash flows to be dedicated to debt service payments instead of other purposes;
- increasing our vulnerability to general adverse economic and industry conditions;
- limiting our financial flexibility in planning for and reacting to changes in the industry in which we compete;
- placing us at a disadvantage compared to other, less leveraged competitors;
- having a material adverse effect on us if we fail to comply with the covenants in the Bridge Notes or in the instruments governing our other debt; and
- increasing our cost of borrowing.

The terms of our past include and any future indebtedness we may incur could include restrictive covenants. We cannot assure you that we will be able to maintain compliance with the covenants in the agreements governing our indebtedness in the future or, if we fail to do so, that we will be able to obtain waivers from the lenders and/or amend the covenants.

In addition, we may incur additional debt from time to time to finance working capital, capital expenditures, investments or acquisitions, or for other purposes. The Bridge Notes contain a prohibition on the incurrence of additional indebtedness by us or our subsidiaries. If we incur additional debt, the risks related to our high level of debt could intensify.

*The issuance of shares of common stock upon conversion of, or payment of interest on, the Bridge Notes could substantially dilute your investment.*

The Bridge Notes are convertible into shares of our common stock (the "Note Shares") and give the holders an opportunity to profit from a rise in the market price of our common stock such that conversion thereof will result in dilution of the equity interests of our stockholders. Further, the issuance of shares of our common stock, at our election, in lieu of cash, in payment of interest on the Bridge Notes, would result in dilution of the equity interests of our other stockholders. The existence and potentially dilutive impact of the Bridge Notes may prevent us from obtaining additional financing in the future on acceptable terms, or at all.

*We may not be able to generate a sufficient amount of cash flow to meet our debt service obligations, including the Bridge Notes.*

Our ability to make scheduled payments or to pay or refinance our obligations with respect to the Bridge Notes and our other debt will depend on our financial and operating performance, which, in turn is subject to prevailing economic conditions and to certain financial, competitive, business and other factors, including the availability of financing in the banking and capital markets as well as the other risks described herein, both within and beyond our control. If our cash flow and capital resources are insufficient to fund our debt service obligations, including the Bridge Notes, and our other commitments, we could face substantial liquidity problems and may be forced to reduce or delay scheduled expansions and capital expenditures, sell material assets or operations, obtain additional capital or restructure our debt. In addition, we cannot assure you that our operating performance, cash flow and capital resources will be sufficient for payment of our debt in the future. If we are unable to meet our debt obligations or to fund our other liquidity needs, we will need to restructure or refinance all or a portion of our debt, including the Bridge Notes, which could cause us to default on our debt obligations and impair our liquidity. Any refinancing of our indebtedness could be at higher interest rates and may require us to comply with more onerous covenants which could further restrict our business operations. In the event that we are required to dispose of material assets or operations or restructure our debt to meet our debt service and other obligations, we cannot provide assurance that we could affect any of these actions on a timely basis, on commercially reasonable terms or at all, or that these actions would be sufficient to meet our capital requirements. In addition, the terms of our existing or future debt agreements may restrict us from affecting certain or any of these alternatives.

If we cannot make scheduled payments on our debt, we will be in default and, as a result:

- our debt holders could declare all outstanding principal and interest to be due and payable; and
- we could be forced into bankruptcy or liquidation.

*Failure to comply with covenants in the Bridge Notes or in any future financing agreements could result in cross-defaults under our current or future financing agreements, which could jeopardize our ability to satisfy our obligations under the Bridge Notes.*

Various risks, uncertainties and events beyond our control could affect our ability to comply with covenants, financial tests, ratios and/or other provisions of any current or future financing agreements we may enter into. Failure to comply with any of the covenants in any current or future financing agreements could result in a default under those agreements and under other agreements containing cross-default provisions. A default would permit lenders to cease to make further extensions of credit, accelerate the maturity



of the debt under these agreements and foreclose upon any collateral securing that debt. Under these circumstances, we might not have sufficient funds or other resources to satisfy all of our obligations, including our ability to repay our obligations under the Bridge Notes.

***The collateral underlying the Bridge Notes as security may be inadequate to collateralize the Bridge Notes.***

The Bridge Notes will be secured by first-priority security interest in all of our assets. The value of the collateral and the amount to be received upon a sale of such collateral will depend upon many factors including, both within and outside of our control. The book value of the pledged assets should not be relied on as a measure of realizable value for such assets. There can be no assurance that our assets will sufficiently collateralize the Bridge Notes that may be issued in this Offering. If our assets are insufficient to collateralize the Bridge Notes, subscribers in this Offering could lose all or a portion of their investment in the event of a default on the Bridge Notes. In addition, the grant of a security interest over all of the Company's assets to subscribers in this Offering could limit the Company's ability to borrow additional funds, should it need to, from a bank or other third party lender.

***We have not retained independent professionals for the investors in the Bridge Notes.***

We have not retained any independent professionals to review or comment on the offering of the Bridge Notes or otherwise protect their interests. Although we have retained our own counsel, neither our counsel nor any other firm has made any independent examination of any factual matters represented by us herein, and purchasers of the Bridge Notes offered hereby should not rely on any such firms so retained with respect to any matters herein described.

***No tax advice or counsel is given within the Offering Documents and the Company has not sought any tax advice with respect to the Offering.***

There are material U.S. federal income tax considerations associated with the acquisition, ownership and disposition of the Bridge Notes and/or common stock issuable upon conversion of the Bridge Notes. The Offering Documents do not discuss the U.S. federal income tax consequences, or provide any tax advice, to any prospective Subscriber, the Company or its affiliates, or its existing shareholders regarding the offering, acquisition, ownership, conversion and/or disposition of the Bridge Notes or common stock issuable upon conversion of the Bridge Notes. The Offering Documents also do not address any state, local or non-U.S. tax considerations.

In evaluating the purchase of the Bridge Notes as an investment, as well as the acquisition, ownership, conversion and/or disposition of the Bridge Notes or common stock issuable upon conversion of the Bridge Notes, a prospective purchaser should consider the tax risks thereof, if any, as well as possible adverse changes in the tax laws and their interpretation. If you are considering the purchase of the Bridge Notes in this Offering, we urge you to consult your own tax advisors concerning the particular U.S. federal income tax consequences to you of such an investment, as well as any consequences to you arising under the laws of any other taxing jurisdiction.

In addition, the Company has not sought any tax advice regarding the U.S. federal income tax considerations to it, its affiliates, or its existing shareholders, associated with the acquisition, ownership and disposition of the common stock issuable upon conversion of the Bridge Notes. The value of our common stock may be difficult to ascertain, which may make it difficult for you to make a decision as to ownership, sale or conversion of the Bridge Notes and/or the common stock issuable upon conversion of the Bridge Notes.

***We have no dividend policy.***

The Company does not presently intend to pay cash dividends in the foreseeable future, as any earnings must be retained for use in current operations. Subscribers must not look to an investment in the Company as a source of cash distributions.

***Potential future dilution.***

The Company may raise additional capital in the future for working capital and business expansion. As a result, our shareholders will likely experience dilution of their ownership in the Company and the additional dilution in the net tangible book value of their common stock in the future.

***An investment in the Bridge Notes should be considered illiquid.***

There is currently no trading market for any of the Company's Bridge Notes and only a very limited market for the Company's common stock, and a market for the Bridge Notes is not expected to develop in the immediate future. Accordingly, purchase of the Bridge Notes and ownership of the Bridge Notes and Warrants should be viewed as illiquid investments.

***This Offering is being made pursuant to an exemption from registration.***

This Offering is being made in reliance upon exemption from registration with the SEC provided by Section 4(a)(2) of the Securities Act and Rule 506(b) of Regulation D and the exemptions from registration provided by the Blue Sky laws of states in which the Bridge Notes are offered. However, reliance upon these exemptions is highly technical and should not be viewed as a guarantee that such exemptions are indeed available. This Offering may be qualified, registered or otherwise authorized in certain other states if appropriate. If for any reason the exemption is not available for this Offering and no other exemption from registration is found to be available, the sale of securities in any of such offerings would be deemed to have been made in violation of the applicable laws, thus requiring registration of such securities. As a remedy for such a violation, each investor would have the right to rescind its purchase and to have its full investment returned. If an investor requests return of his, her or its investment, it is possible that funds would not be available to the Company for that purpose, and that liquidation of the Company may be required. Any refunds made would reduce funds available to us for our operations. A significant number of requests for rescission would probably leave us without funds sufficient to respond to such requests or to proceed successfully with its activities.

***The Bridge Notes offered in this Offering will be subject to substantial restrictions on resale; no public or other market exists for our securities.***

The Bridge Notes offered in this Offering are being offered and sold pursuant to one or more exemptions from the registration requirement of the Securities Act, and without qualification or registration under the securities laws of various states. Consequently, the securities offered hereby and the common stock issuable upon conversion of the Bridge Notes may not be sold, transferred or hypothecated without registration under the Securities Act and applicable state laws or without registration or an exemption from such registration or qualification. The securities will bear a legend restricting their transfer accordingly, and may bear certain legends required by state law where required. Subscribers should seek their own counsel to advise them on rules and regulations relating to the resale of the securities.

***We will have broad discretion in the use of proceeds.***

Our executive officers will have broad discretion in allocating the net proceeds of the Offering, which creates uncertainty for subscribers and could adversely affect our financial



## SECURED CONVERTIBLE PROMISSORY NOTE MODIFICATION AGREEMENT

**THIS SECURED PROMISSORY NOTE MODIFICATION AGREEMENT (“Modification”)** is made and entered into on December 21, 2022 by and among Odyssey Semiconductor Technologies, Inc., a Delaware Corporation with offices at 9 Brown Road, Ithaca, NY 14850 (the “**Company**”) and Nina and John Edmunds 1998 Family Trust dated January 27, 1998 (the “**Holder**”).

WHEREAS, Holder loaned Company the sum of **One Million Two Hundred and Fifty Thousand and 00/100 Dollars** (\$1,250,000.00) (“**Loan**”), which Loan was evidenced by a certain Convertible Secured Promissory Note (the “**Note**”) (the said Note and any other instrument or document given in connection with or to secure the Loan being collectively referred to as “**Loan Documents**”).

WHEREAS, the parties hereto desire to modify the Note as hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing promises and the covenants contained herein, the parties hereto agree as follows:

1. Modification. The Note is hereby modified as follows:

(a) The term “**Maturity Date**” is hereby modified to mean the earlier of (i) the date upon which the Note is converted into equity securities as set forth in the Note, or June 30, 2025.

(b) The term “Financing Event” as defined in Section 3.1(f) of the Note is hereby revised to read as follows: “**Financing Event**” shall mean the earlier of (i) a public offering by the Company of its Common Stock with aggregate gross proceeds of at least \$5 million; or (ii) the listing of the Company’s Common Stock on a National Securities Exchange, as such term is defined under the Exchange Act.

2. Ratification of Loan Documents. The Loan Documents are in all respects ratified and confirmed by the parties hereto and incorporated by reference herein, and each of the Loan Documents and this Modification shall be read, taken and construed as one and the same instrument. Capitalized terms used herein and not otherwise defined shall have the meanings given to them in the Note. In the event of any conflict between the terms and provisions of this Modification and the terms and provisions of the Note, the terms and provisions of this Modification shall control.

3. Governing Law. This Modification will be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule.

**IN WITNESS WHEREOF**, the Company and Holder have each caused this Modification to be signed in its name by an authorized officer as of the date first set forth above.

**HOLDER**

**ODYSSEY SEMICONDUCTOR TECHNOLOGIES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: Mark Davidson  
Title: Chief Executive Officer