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[**COMPANY NAME**]

## SAFE

### (Simple Agreement for Future Equity)

THIS CERTIFIES THAT in exchange for the payment by [ ] Fund I, a series of ODX Investments, LP ("**ODX**") of \$125,000 (the "**Purchase Amount**") on or about [**Date of SAFE**], [**Company Name**] (the "**Company**"), issues to ODX the right to certain shares of the Company's Capital Stock, subject to the terms described below. The Purchase Amount will be paid by ODX by check payable to the Company, by wire transfer to a bank account designated by the Company, by cancellation or conversion of indebtedness of the Company to ODX, or by any combination of such methods.

See **Section 2** for certain defined terms capitalized herein.

#### 1. **Events**

(a) **Equity Financing**. If there is an Equity Financing before the termination of this SAFE, on the initial closing of such Equity Financing, this SAFE will automatically convert into a number of shares of SAFE Preferred Stock equal to the Company Capitalization multiplied by the ODX Percentage.

In connection with the automatic conversion of this SAFE into shares of SAFE Preferred Stock, ODX will execute and deliver to the Company all of the transaction documents related to the Equity Financing; *provided*, that such transaction documents (i) are reasonable (in the sole discretion of ODX) and are the same documents to be entered into with the purchasers of Standard Preferred Stock, with appropriate variations for the SAFE Preferred Stock; and (ii) have customary exceptions to any drag-along applicable to ODX, including (without limitation) limited representations, warranties, liability and indemnification obligations for ODX.

(b) **Liquidity Event**. If there is a Liquidity Event before the termination of this SAFE, this SAFE will automatically be entitled (subject to the liquidation priority set forth in Section 1(d) below) to receive a portion of Proceeds, due and payable to ODX immediately prior to, or concurrent with, the consummation of such Liquidity Event, equal to the greater of (i) the Purchase Amount (the "**Cash-Out Amounts**") or (ii) the amount payable on the number of shares of Common Stock equal to the Liquidity Capitalization multiplied by the ODX Percentage, (the "**Conversion Amount**"). If any of the Company's securityholders are given a choice as to the form and amount of Proceeds to be received in a Liquidity Event, ODX will be given the same choice, *provided* that ODX may not choose to receive a form of consideration that ODX would be ineligible to receive as a result of ODX's failure to satisfy any requirement or limitation generally applicable to the Company's securityholders, or under any applicable laws.

Notwithstanding the foregoing, in connection with a Change of Control intended to qualify as a tax-free reorganization, the Company may reduce the cash portion of Proceeds payable to ODX by the amount

determined by its board of directors in good faith for such Change of Control to qualify as a tax-free reorganization for U.S. federal income tax purposes, provided that such reduction (A) does not reduce the total Proceeds payable to ODX and (B) is applied in the same manner and on a pro rata basis to all securityholders who have equal priority to ODX under Section 1(d).

(c) **Dissolution Event**. If there is a Dissolution Event before the termination of this SAFE, ODX will automatically be entitled (subject to the liquidation priority set forth in Section 1(d) below) to receive a portion of Proceeds equal to the Cash-Out Amount, due and payable to ODX immediately prior to the consummation of the Dissolution Event.

(d) **Liquidity Priority**. In a Liquidity Event or Dissolution Event, this SAFE is intended to operate like standard non-participating Preferred Stock. ODX's right to receive its Cash-Out Amount is:

(i) Junior to payment of outstanding indebtedness and creditor claims, including contractual claims for payment and convertible promissory notes (to the extent such convertible promissory notes are not actually or notionally converted into Capital Stock);

(ii) On par with payments for other SAFEs and/or Preferred Stock, and if the applicable Proceeds are insufficient to permit full payments to ODX and such other SAFEs and/or Preferred Stock, the applicable Proceeds will be distributed pro rata to ODX and such other SAFEs and/or Preferred Stock in proportion to the full payments that would otherwise be due; and

(iii) Senior to payments for Common Stock.

ODX's right to receive its Conversion Amount is (A) on par with payments for Common Stock and other SAFEs and/or Preferred Stock who are also receiving Conversion Amounts or Proceeds on a similar as-converted to Common Stock basis, and (B) junior to payments described in clauses (i) and (ii) above (in the latter case, to the extent such payments are Cash-Out Amounts or similar liquidation preferences).

(e) **Termination**. This SAFE will automatically terminate (without relieving the Company of any obligations arising from a prior breach of or non-compliance with this SAFE) immediately following the earliest to occur of: (i) the issuance of Capital Stock to ODX pursuant to the automatic conversion of this SAFE under Section 1(a); or (ii) the payment, or setting aside for payment, of amounts due ODX pursuant to Section 1(b) or Section 1(c).

## **2. Definitions**

"**Capital Stock**" means the capital stock of the Company, including, without limitation, the "**Common Stock**" and the "**Preferred Stock**" of the Company (as such terms are defined in the Company's certificate of incorporation, as it may be amended from time to time).

"**Change of Control**" means (i) a transaction or series of related transactions in which any "person" or "group" (within the meaning of Section 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934, as amended), directly or indirectly, of more than 50% of the outstanding voting securities of the Company having the right to vote for the election of members of the Company's board of directors, (ii) any reorganization, merger or consolidation of the Company, other than a transaction or series of related transactions in which the holders of the voting securities of the Company outstanding immediately prior to such transaction or series of related

transactions retain, immediately after such transaction or series of related transactions, at least a majority of the total voting power represented by the outstanding voting securities of the Company or such other surviving or resulting entity or (iii) a sale, lease or other disposition of all or substantially all of the assets of the Company.

**"Company Capitalization"** is calculated as of immediately prior to the Equity Financing and (without double-counting, in each case calculated on an as-converted to Common Stock basis):

- Includes all shares of Capital Stock issued and outstanding;
- Includes shares issuable upon conversion of any outstanding Converting Securities (whether or not such Converting Securities are actually converting in the Equity Financing);
- Includes all (i) issued and outstanding Options and (ii) Promised Options; and
- Includes the Unissued Option Pool, except that any increase to the Unissued Option Pool in connection with the Equity Financing shall only be included to the extent that the number of Promised Options exceeds the Unissued Option Pool prior to such increase.

**"Converting Securities"** includes this SAFE and other convertible securities issued by the Company, including but not limited to: (i) other SAFEs; (ii) convertible promissory notes and other convertible debt instruments; and (iii) convertible securities that have the right to convert into shares of Capital Stock.

**"Direct Listing"** means the Company's initial listing of its Common Stock (other than shares of Common Stock not eligible for resale under Rule 144 under the Securities Act) on a national securities exchange by means of an effective registration statement on Form S-1 filed by the Company with the SEC that registers shares of existing capital stock of the Company for resale, as approved by the Company's board of directors. For the avoidance of doubt, a Direct Listing shall not be deemed to be an underwritten offering and shall not involve any underwriting services.

**"Dissolution Event"** means (i) a voluntary termination of operations, (ii) a general assignment for the benefit of the Company's creditors or (iii) any other liquidation, dissolution or winding up of the Company (excluding a Liquidity Event), whether voluntary or involuntary.

**"Dividend Amount"** means, with respect to any date on which the Company pays a dividend on its outstanding Common Stock, the amount of such dividend that is paid per share of Common Stock multiplied by (x) the Purchase Amount divided by (y) the Liquidity Price (treating the dividend date as a Liquidity Event solely for purposes of calculating such Liquidity Price).

**"Equity Financing"** means a bona fide transaction or series of transactions with the principal purpose of raising capital, pursuant to which the Company issues and sells shares of Preferred Stock at a fixed valuation, including but not limited to, a pre-money or post-money valuation. If the securities to be issued by the Company in any bona fide transaction or series of transactions with the principal purpose of raising capital are shares of Common Stock, ODX shall have the right, but not the obligation, to treat such transaction or series of related transactions as an Equity Financing for purposes of Section 1, with appropriate adjustments to all references to "Preferred Stock" to account for Common Stock being issued and sold instead.

**"Initial Public Offering"** means the closing of the Company's first firm commitment underwritten initial public offering of Common Stock pursuant to a registration statement filed under the Securities Act.

**"Liquidity Capitalization"** is calculated as of immediately prior to the Liquidity Event, and (without double-counting, in each case calculated on an as-converted to Common Stock basis):

- Includes all shares of Capital Stock issued and outstanding;
- Includes all (i) issued and outstanding Options and (ii) to the extent receiving Proceeds, Promised Options;
- Includes all shares issuable upon conversion of any outstanding Converting Securities, **other than** any SAFEs and other convertible securities (including without limitation shares of Preferred Stock) where the holders of such securities are receiving Cash-Out Amounts or similar liquidation preference payments in lieu of Conversion Amounts or similar "as-converted" payments; and
- Excludes the Unissued Option Pool.

**"Liquidity Event"** means a Change of Control, a Direct Listing or an Initial Public Offering.

**"Liquidity Price"** means the Purchase Amount divided by the number of shares of Common Stock represented by the Conversion Amount pursuant to Section 1(b)(ii).

**"ODX Affiliate"** means (i) nZero Labs, Inc. ("**On Deck**"), (ii) any person or entity that controls, is controlled by or is under common control with On Deck or ODX, including, without limitation, any affiliated corporation, limited liability company, or general partner; (iii) any entity that receives any services from On Deck or ODX or any subsidiary thereof, other than an entity that is reasonably determined to be a direct competitor of the Company; (iv) any investment fund or similar vehicle in respect of which any of the foregoing plays a material management role; (v) any other entity in any manner affiliated or associated with any of the foregoing which entity uses the "On Deck," "ODX" or "Runway Fund" or trademark or tradename; (vi) any other entity generally considered a constituent part of the collection of entities commonly referred to as "On Deck;" and (vii) any predecessor or successor entities to any of the foregoing.

**"ODX Percentage"** means seven percent (7%).

**"Options"** includes options, restricted stock awards or purchases, RSUs, SARs, warrants or similar securities, vested or unvested.

**"Proceeds"** means cash and other assets (including without limitation stock consideration) that are proceeds from the Liquidity Event or the Dissolution Event, as applicable, and legally available for distribution.

**"Promised Options"** means promised but ungranted Options that are the greater of those (i) promised pursuant to agreements or understandings made prior to the execution of, or in connection with, the term sheet or letter of intent for the Equity Financing or Liquidity Event, as applicable (or the initial closing of the Equity Financing or consummation of the Liquidity Event, if there is no term sheet or letter of intent), (ii) in the case of an Equity Financing, treated as outstanding Options in the calculation of the Standard Preferred Stock's price per share, or (iii) in the case of a Liquidity Event, treated as outstanding Options in the calculation of the distribution of the Proceeds.

**"SAFE"** means an instrument containing a future right to shares of Capital Stock, similar in form and content to this instrument, purchased by investors for the purpose of funding the Company's business operations. References to "this SAFE" mean this specific instrument.

**"SAFE Preferred Stock"** means the shares of the series of Preferred Stock issued to ODX in an Equity Financing, having the identical rights, privileges, preferences and restrictions as the shares of Standard Preferred Stock, other than with respect to: (i) the per share liquidation preference and the initial conversion price for

purposes of price-based anti-dilution protection, which will equal the SAFE Price; and (ii) the basis for any dividend rights, which will be based on the SAFE Price.

**"SAFE Price"** means the Purchase Amount divided by the number of shares of SAFE Preferred Stock issued pursuant to Section 1(a).

**"Standard Preferred Stock"** means the shares of the series of Preferred Stock issued to the investors investing new money in the Company in connection with the initial closing of the Equity Financing.

**"Unissued Option Pool"** means all shares of Capital Stock that are reserved, available for future grant and not subject to any outstanding Options or Promised Options (but in the case of a Liquidity Event, only to the extent Proceeds are payable on such Promised Options) under any equity incentive or similar Company plan.

### **3. Company Representations**

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and has the power and authority to own, lease and operate its properties and carry on its business as now conducted.

(b) The execution, delivery and performance by the Company of this SAFE is within the power of the Company and has been duly authorized by all necessary actions on the part of the Company (subject to section 3(d)). This SAFE constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity. To its knowledge, the Company is not in violation of (i) its current certificate of incorporation or bylaws, (ii) any material statute, rule or regulation applicable to the Company or (iii) any material debt or contract to which the Company is a party or by which it is bound, where, in each case, such violation or default, individually, or together with all such violations or defaults, could reasonably be expected to have a material adverse effect on the Company.

(c) The performance and consummation of the transactions contemplated by this SAFE do not and will not: (i) violate any material judgment, statute, rule or regulation applicable to the Company; (ii) result in the acceleration of any material debt or contract to which the Company is a party or by which it is bound; or (iii) result in the creation or imposition of any lien on any property, asset or revenue of the Company or the suspension, forfeiture, or nonrenewal of any material permit, license or authorization applicable to the Company, its business or operations.

(d) No consents or approvals are required in connection with the performance of this SAFE, other than: (i) the Company's corporate approvals; (ii) any qualifications or filings under applicable securities laws; and (iii) necessary corporate approvals for the authorization of Capital Stock issuable pursuant to Section 1.

(e) To its knowledge, the Company owns or possesses (or can obtain on commercially reasonable terms) sufficient legal rights to all patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, processes and other intellectual property rights necessary for its business as now conducted and as currently proposed to be conducted, without any conflict with, or infringement of the rights of, others.

#### **4. ODX Representations**

(a) ODX has full legal capacity, power and authority to execute and deliver this SAFE and to perform its obligations hereunder. This SAFE constitutes a valid and binding obligation of ODX, enforceable in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(b) ODX is an accredited investor as such term is defined in Rule 501 of Regulation D under the Securities Act, and acknowledges and agrees that if not an accredited investor at the time of an Equity Financing, the Company may void this SAFE and return the Purchase Amount. ODX has been advised that this SAFE and the underlying securities have not been registered under the Securities Act, or any state securities laws and, therefore, cannot be resold unless they are registered under the Securities Act and applicable state securities laws or unless an exemption from such registration requirements is available. ODX is purchasing this SAFE and the securities to be acquired by ODX hereunder for its own account for investment, not as a nominee or agent, and not with a view to, or for resale in connection with, the distribution thereof, and ODX has no present intention of selling, granting any participation in, or otherwise distributing the same. ODX has such knowledge and experience in financial and business matters such that ODX is capable of evaluating the merits and risks of such investment, is able to incur a complete loss of such investment without impairing ODX's financial condition and is able to bear the economic risk of such investment for an indefinite period of time.

#### **5. Miscellaneous**

(a) Any provision of this SAFE may be amended, waived or modified only upon the written consent of the Company and ODX.

(b) Any notice required or permitted by this SAFE will be deemed sufficient when delivered personally or by overnight courier or sent by email to the relevant address listed on the signature page, or 48 hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party's address listed on the signature page, as subsequently modified by written notice.

(c) ODX is not entitled, as holder of this SAFE, to vote or be deemed holders of Capital Stock for any purpose other than tax purposes, nor will anything in this SAFE be construed to confer on ODX, as such, any rights of a Company stockholder or rights to vote for the election of directors or on any matter submitted to Company stockholders, or to give or withhold consent to any corporate action or to receive notice of meetings, until shares have been issued on the terms described in Section 1. However, if the Company pays a dividend on outstanding shares of Common Stock (that is not payable in shares of Common Stock) while this SAFE is outstanding, the Company will pay the Dividend Amount to ODX at the same time.

(d) Neither this SAFE nor the rights in this SAFE are transferable or assignable, by operation of law or otherwise, by either party without the prior written consent of the other; *provided, however*, that this SAFE and/or its rights may be assigned without the Company's consent by ODX to any ODX Affiliate; and *provided, further*, that the Company may assign this SAFE in whole, without the consent of ODX, in connection with a reincorporation to change the Company's domicile.

(e) In the event any one or more of the provisions of this SAFE is for any reason held to be invalid, illegal or unenforceable, in whole or in part or in any respect, or in the event that any one or more of the provisions of this SAFE operate or would prospectively operate to invalidate this SAFE, then and in any such event, such provision(s) only will be deemed null and void and will not affect any other provision of this SAFE and the

remaining provisions of this SAFE will remain operative and in full force and effect and will not be affected, prejudiced, or disturbed thereby.

(f) All rights and obligations hereunder will be governed by the laws of the State of Delaware, without regard to the conflicts of law provisions of such jurisdiction.

(g) The parties acknowledge and agree that for United States federal and state income tax purposes this SAFE is, and at all times has been, intended to be characterized as stock, and more particularly as common stock for purposes of Sections 304, 305, 306, 354, 368, 1036 and 1202 of the Internal Revenue Code of 1986, as amended. Accordingly, the parties agree to treat this SAFE consistent with the foregoing intent for all United States federal and state income tax purposes (including, without limitation, on their respective tax returns or other informational statements).

*(Signature page follows)*

IN WITNESS WHEREOF, the undersigned have caused this SAFE to be duly executed and delivered.

**COMPANY**

**[COMPANY]**

By: \_\_\_\_\_

Name:

Title:

Email:

**ODX**

**[ ] FUND I, a series of ODX INVESTMENTS, LP**

By: \_\_\_\_\_

Name:

Title:

Address:

Phone Number:

Email: