
**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): April 25, 2025

EXAGEN INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39049
(Commission
File Number)

20-0434866
(IRS Employer
Identification No.)

1261 Liberty Way
Vista, CA 92081
(Address of principal executive offices) (Zip Code)

(760) 560-1501
(Registrant's telephone number, including area code)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- 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))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.001 per share	XGN	The Nasdaq Global Market

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.

Item 1.01 Entry into a Material Definitive Agreement.

Entry into Perceptive Term Loan Facility

On April 25, 2025 (the “Closing Date”), Exagen Inc. (the “Company”) entered into a Credit Agreement and Guaranty (the “Credit Agreement”) with Perceptive Credit Holdings IV, LP, as lender and administrative agent (“Perceptive”), which provides for a senior secured delayed draw term loan facility in an aggregate principal amount of up to \$75.0 million (the “Perceptive Term Loan Facility”). An initial tranche of \$25.0 million (the “Tranche A Loan”) was funded under the Perceptive Term Loan Facility on the Closing Date. In addition to the Tranche A Loan, the Perceptive Term Loan Facility includes (i) available through March 31, 2026, an additional Tranche B Loan in an aggregate amount of up to \$10.0 million (the “Tranche B Loan”), (ii) available from March 31, 2026 through December 31, 2026, an additional Tranche C Loan in an aggregate amount of up to \$10.0 million (the “Tranche C Loan”) and (iii) until December 31, 2027, an additional Tranche D Loan in an aggregate amount of up to \$30.0 million (the “Tranche D Loan” and together with the Tranche A Loan, the Tranche B Loan, and the Tranche C Loan, the “Term Loans”), each of which will be accessible by the Company so long as the Company satisfies certain customary conditions precedent, including specified revenue milestones (the funding date of the Tranche B Loan, the “Tranche B Borrowing Date,” the funding date of the Tranche C Loan, the “Tranche C Borrowing Date,” and the funding date of the Tranche D Loan, the “Tranche D Borrowing Date”) and, for the Tranche D Loan, subject to certain business development milestones. The Perceptive Term Loan Facility has a maturity date of April 25, 2030 (the “Maturity Date”) and provides for an interest-only period during the term of the loan with principal due at the Maturity Date. The Company’s net proceeds from the Tranche A Loan were approximately \$22.8 million, after deducting estimated debt issuance costs, fees and expenses and excluding any repayment of existing debt.

Interest Rate

The Perceptive Term Loan Facility will accrue interest at an annual rate equal to the greater of (a) Term SOFR (as defined in the Credit Agreement) and (b) 4.75% per annum, plus an applicable margin of 7% (the “Applicable Margin”). Accrued interest on the Term Loans is payable monthly in arrears. Upon the occurrence, and during the continuance, of an Event of Default (as defined in the Credit Agreement), Perceptive may make a written election for the Applicable Margin to automatically increase by an additional 4% per annum.

Amortization and Prepayment

Prior to the Maturity Date, there will be no scheduled principal payments under the Perceptive Term Loan Facility. On the Maturity Date, the Company is required to pay Perceptive the aggregate outstanding principal amount of the Term Loans and all accrued and unpaid interest thereon. The Term Loans may be prepaid at any time, subject to a prepayment premium equal to 2% to 10% of the aggregate outstanding principal amount being prepaid, depending on the date of prepayment.

Security Instruments and Warrant

In connection with the Credit Agreement, the Company also entered into a Security Agreement (the “Security Agreement”), dated as of the Closing Date, with Perceptive, pursuant to which all of its obligations under the Credit Agreement are secured by a first lien perfected security interest on substantially all of its existing and after-acquired assets, subject to customary exceptions.

In addition, on the Closing Date, as consideration for the Credit Agreement, the Company issued to Perceptive a warrant certificate (the “Warrant Certificate”) to purchase up to 1,150,000 shares (the “Warrant Shares”) of the Company’s common stock, par value \$0.001 per share (the “Common Stock”). 400,000 Warrant Shares (the “Tranche A Warrant Shares”) vested and became exercisable on the Closing Date, 150,000 Warrant Shares (the “Tranche B Warrant Shares”) will vest and become exercisable on the Tranche B Borrowing Date, 150,000 Warrant Shares (the “Tranche C Warrant Shares”) will vest and become exercisable on the Tranche C Borrowing Date and 450,000 Warrant Shares (the “Tranche D Warrant Shares” and together with the Tranche A Warrant Shares, Tranche B Warrant Shares and Tranche C Warrant Shares, the “Warrant Shares”) will vest and become exercisable on the Tranche D Borrowing Date, if such borrowing is made. The per share exercise price for (i) 50% of the Tranche A Warrant Shares is \$4.96 and (ii) the remaining balance of the Tranche A Warrant Shares is \$5.58. Additionally, the per share exercise price for (i) 50% of each of the Tranche B Warrant Shares, the Tranche C Warrant Shares and the Tranche D Warrant Shares will be equal to the 10-day VWAP of the Common Stock on the business day immediately

preceding the Tranche B Borrowing Date, Tranche C Borrowing Date and Tranche D Borrowing Date, as applicable, and (ii) the remaining balance of each of the Tranche B Warrant Shares, the Tranche C Warrant Shares and the Tranche D Warrant Shares will be equal to 1.125 multiplied by the 10-day VWAP of the Common Stock on the business day immediately preceding the Tranche B Borrowing Date, Tranche C Borrowing Date and Tranche D Borrowing Date, respectively. The Warrant Certificate will be exercisable, in whole or in part, until the 10th anniversary of the applicable vesting date, and may be exercised on a cashless or “net” basis. The Warrant Certificate is freely transferable and will be automatically exercised, on a cashless basis, prior to its expiration if the value of the shares underlying the Warrant Certificate is greater than the then-applicable exercise price. The exercise prices described herein are subject to broad-based weighted anti-dilution protection adjustment for certain dilutive issuances and for certain recapitalization events, as further described in the Warrant Certificate.

The issuance of the Warrant Certificate has not been, and the sale of the Warrant Shares issuable upon exercise of the Warrant Certificate have not been, registered under the Securities Act of 1933, as amended (the “Securities Act”) in reliance upon the exemption from registration under Section 4(a) (2) of the Securities Act. Pursuant to the Warrant Certificate, the Company has granted Perceptive certain customary piggy-back and resale registration rights in respect of the Warrant Shares.

Representations, Warranties, Covenants, and Events of Default

The Credit Agreement contains certain representations and warranties, affirmative covenants, negative covenants, financial covenants, and conditions that are customarily required for similar financings. The affirmative covenants, among other things, require the Company to undertake various reporting and notice requirements, maintain insurance and maintain in full force and effect all Regulatory Approvals, Material Agreements, Intellectual Property (each as defined in the Credit Agreement) and other rights, interests or assets (whether tangible or intangible) reasonably necessary for the operations of its business. The negative covenants restrict or limit the Company’s ability to, among other things and subject to certain exceptions contained in the Credit Agreement, incur new indebtedness; create liens on assets; engage in certain fundamental corporate changes, such as mergers or acquisitions, or changes to the Company’s business activities; make certain Investments or Restricted Payments (each as defined in the Credit Agreement); change the Company’s fiscal year; pay dividends; repay other certain indebtedness; engage in certain affiliate transactions; or enter into, amend or terminate any other agreements that has the impact of restricting the Company’s ability to make loan repayments under the Credit Agreement. In addition, the Company must (i) at all times prior to the Maturity Date, maintain aggregate Unrestricted Cash (as defined in the Credit Agreement) of not less than \$3.0 million and (ii) as of the last day of each fiscal quarter commencing on the fiscal quarter ending June 30, 2025, maintain Net Revenue (as defined in the Credit Agreement) that is not less than the amounts specified in the Credit Agreement.

The Credit Agreement also contains certain customary Events of Default which include, among others, non-payment of principal, interest, or fees, violation of covenants, inaccuracy of representations and warranties, bankruptcy and insolvency events, material judgments, cross-defaults to material contracts, certain regulatory-related events and events constituting a change of control. The occurrence of an Event of Default could result in, among other things, the declaration that all outstanding principal and interest under the Perceptive Term Loan Facility are immediately due and payable in whole or in part.

The foregoing summaries of the Credit Agreement, the Security Agreement and the Warrant Certificate are not complete and are qualified in their entirety by reference to the full text of each of the Credit Agreement, the Security Agreement and the Warrant Certificate, copies of which are filed as exhibits 10.1, 10.2 and 4.1, respectively, to this Current Report on Form 8-K.

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

The information required by this Item 2.03 relating to the Perceptive Term Loan Facility is set forth under Item 1.01 of this Current Report on Form 8-K and is incorporated herein by reference.

Item 3.02 Unregistered Sale of Equity Securities.

The information required by this Item 3.02 relating to the Warrant Certificate and the Warrant Shares is set forth under Item 1.01 of this Current Report on Form 8-K and is incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On April 28, 2025, the Company issued a press release announcing the entry into the Credit Agreement. A copy of the press release is furnished as Exhibit 99.1 hereto and is incorporated herein by reference.

The information in the press release is being furnished, not filed, pursuant to Item 7.01 of Form 8-K. Accordingly, the information in Item 7.01 of this Current Report on Form 8-K, including Exhibit 99.1, will not be incorporated by reference into any registration statement filed by the Company under the Securities Act, unless specifically identified therein as being incorporated by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
4.1	Warrant Certificate, dated April 25, 2025, issued by the Company to Perceptive Credit Holdings IV, LP.
10.1**	Credit Agreement and Guaranty, dated April 25, 2025, by and among the Company and Perceptive Credit Holdings IV, LP.
10.2*	Security Agreement, dated April 25, 2025, by and among the Company and Perceptive Credit Holdings IV, LP.
99.1	Press Release, dated April 28, 2025.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company undertakes to furnish supplemental copies of any of the omitted schedules upon request by the U.S. Securities and Exchange Commission.

Confidential information has been omitted because it is both (i) not material and (ii) is the type of information that the Company treats as private or confidential pursuant to Item 601 of Regulation S-K.

SIGNATURES

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

EXAGEN INC.

Date: April 28, 2025

By: /s/ Jeffrey G. Black

Jeffrey G. Black
Chief Financial Officer

WARRANT CERTIFICATE

THIS WARRANT CERTIFICATE AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), OR QUALIFIED UNDER ANY STATE OR FOREIGN SECURITIES LAWS AND MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OR ASSIGNED UNLESS (I) A REGISTRATION STATEMENT COVERING SUCH SECURITIES IS EFFECTIVE UNDER THE SECURITIES ACT AND IS QUALIFIED UNDER APPLICABLE STATE AND FOREIGN LAW OR (II) THE TRANSACTION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS UNDER THE SECURITIES ACT AND THE QUALIFICATION REQUIREMENTS UNDER APPLICABLE STATE AND FOREIGN LAW.

Warrant Securities Issuable: Up to 1,150,000 shares of Warrant Securities calculated in accordance with this Warrant Certificate.

Warrant Certificate No.: 1

Issue Date: April 25, 2025 (the “**Initial Issue Date**”)

FOR VALUE RECEIVED, **EXAGEN INC.**, a Delaware corporation (the “**Issuer**”), hereby certifies that Perceptive Credit Holdings IV, LP, a Delaware limited partnership (the “**Holder**”) is entitled to purchase from the Issuer that number of Warrant Securities calculated in accordance with **Section 2(a)**, at the per share Exercise Price (defined below), subject to the terms, conditions and adjustments set forth below in this Warrant Certificate. Certain capitalized terms used herein are defined in **Section 1**.

This Warrant Certificate has been issued pursuant to the terms of the Credit Agreement and Guaranty, dated as of April 25, 2025 (as amended or otherwise modified from time to time, the “**Credit Agreement**”), among the Issuer, as the borrower, the guarantors party thereto, and Perceptive Credit Holdings IV, LP, as administrative agent and as a lender.

Section 1. Definitions. The following terms when used herein have the following meanings:

“**Acquisition**” has the meaning set forth in **Section 3(m)(i)**.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified, where “**Control**” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has meanings correlative thereto.

“**Aggregate Exercise Price**” means, with respect to any exercise of this Warrant Certificate for Warrant Securities, an amount equal to the product of (i) the number of Warrant Securities in

respect of which this Warrant Certificate is then being exercised pursuant to **Section 3** multiplied by (ii) the applicable Exercise Price.

“*Anticipated Sale*” has the meaning set forth in **Section 3(j)**.

“*BD Tranche Exercise Price*” means (i) for 50% of the BD Tranche Warrant Securities, a price per share equal to the 10-day VWAP ending on the business day immediately preceding the BD Tranche Vesting Date and (ii) for the remaining BD Tranche Warrant Securities, a price per share equal to 1.125 multiplied by the 10-day VWAP ending on the business day immediately preceding the BD Tranche Vesting Date.

“*BD Tranche Vesting Date*” means the date on which the Tranche D Term Loan (as defined in the Credit Agreement) is funded to the Issuer.

“*BD Tranche Warrant Securities*” has the meaning set forth in **Section 2(b)(iv)**.

“*Beneficial Ownership Limitation*” has the meaning set forth in **Section 3(j)**.

“*Bloomberg*” has the meaning set forth within the definition of VWAP.

“*Blue Sky Application*” has the meaning set forth in **Section 6(c)**.

“*Board*” means the Board of Directors of the Issuer.

“*Business Day*” means any day, except a Saturday, Sunday or legal holiday on which banking institutions in the city of New York, New York are authorized or obligated by law or executive order to close.

“*Cancellation Notice*” has the meaning set forth in **Section 3(o)**.

“*Cancellation Right*” has the meaning set forth in **Section 3(o)**.

“*Cash Acquisition*” has the meaning set forth in **Section 3(m)(ii)**.

“*Cashless Exercise*” has the meaning set forth in **Section 3(b)(ii)**.

“*Common Shares*” means shares of the Issuer’s common stock.

“*Common Stock Deemed Outstanding*” means, at any given time, the sum of (a) the number of Common Shares actually outstanding at such time, plus (b) the number of Common Shares issuable upon exercise of Options actually outstanding at such time, plus (c) the number of Common Shares issuable upon conversion or exchange of Convertible Securities actually outstanding at such time (treating as actually outstanding any Convertible Securities issuable upon exercise of Options actually outstanding at such time), in each case, regardless of whether the Options or Convertible Securities are actually exercisable at such time; provided, that Common Stock Deemed Outstanding at any given time shall not include shares owned or held by or for the account of the Issuer or any of its wholly-owned subsidiaries.

“**Convertible Securities**” means any debt, equity or other securities that are, directly or indirectly, convertible into or exchangeable for Warrant Securities.

“**Credit Agreement**” means that certain Credit Agreement and Guaranty dated as of April 25, 2025, among Exagen Inc. as borrower, the guarantors party thereto, the lenders from time to time party thereto, and Perceptive Credit Holdings IV, LP, as the administrative agent.

“**Delivery Deadline**” means, (x) at any time that the Issuer’s equity securities are not being traded on a Trading Market, five (5) Business Days after the Exercise Date in respect of such exercise, and (y) at any time that the Issuer’s equity securities are traded on a Trading Market, two (2) Business Days after the Exercise Date in respect of such exercise.

“**Delivery Failure**” means the failure by the Issuer, for any reason, to deliver Warrant Securities to the Holder or its designee on or prior to the Delivery Deadline.

“**DTC**” means the Depository Trust Company.

“**DWAC**” has the meaning set forth in **Section 3(i)**.

“**Effectiveness Deadline**” has the meaning set forth in **Section 6(a)(i)**.

“**Effectiveness Period**” has the meaning set forth in **Section 6(a)(i)**.

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

“**Excluded Issuance**” means any issuance or sale (or deemed issuance or sale in accordance with **Section 4(g)**) by the Issuer after the Initial Issue Date of: (a) Common Shares issued upon the exercise of this Warrant Certificate; (b) Common Shares (as such number of shares is equitably adjusted for subsequent stock splits, stock combinations, stock dividends, and recapitalizations) issued directly, upon the vesting of equity awards or upon the exercise of Options to directors, officers, employees, or consultants of the Issuer in connection with their service as directors of the Issuer, their employment by the Issuer, or their retention as consultants by the Issuer, in each case authorized by the Board and issued pursuant to equity incentive plans or stock purchase plans of the Issuer approved by the Board or a committee thereof (including all such Common Shares and Options outstanding prior to the Initial Issue Date); (c) Options, Convertible Securities or equity awards issued to directors, officers, employees, or consultants of the Issuer in connection with their service as directors of the Issuer, their employment by the Issuer, or their retention as consultants by the Issuer, in each case authorized by the Board and issued pursuant to equity incentive plans or stock purchase plans of the Issuer approved by the Board or a committee thereof (including all such Convertible Securities, Options and equity awards outstanding prior to the Initial Issue Date) (d) Common Shares issued upon the conversion or exercise of Options (other than Options covered by clause (b) above) or Convertible Securities issued prior to the Initial Issue Date, provided that such securities are not amended after the date hereof to increase the number of Common Shares issuable thereunder or to lower the exercise or conversion price thereof except as may occur in connection with events such as those described in Section 4(b) herein and similar events; (e) Common Shares, Options, or Convertible Securities issued (i) to Persons in connection with a joint venture, strategic alliance, or other commercial relationship with such Person (including Persons that are customers, suppliers, and strategic partners of the Issuer) relating to the

operation of the Issuer's business and not for the primary purpose of raising equity capital, (ii) in connection with a transaction in which the Issuer, directly or indirectly, acquires another business or its tangible or intangible assets, or (iii) to lenders as equity kickers in connection with debt financings of the Issuer, in each case where such transactions have been approved by the Board; (f) Common Shares in an offering for cash for the account of the Issuer that is underwritten on a best efforts or firm commitment basis and is registered with the Securities and Exchange Commission under the Securities Act; (g) Common Shares issued pursuant to an at-the-market sales arrangement, including issuances pursuant to that certain Sales Agreement, dated November 17, 2023, by and between the Issuer and TD Securities (USA) LLC, or pursuant to an equity line of credit arrangement or (h) Common Shares, Options, or Convertible Securities issued to the lessor or vendor in any office lease or equipment lease or similar equipment financing transaction in which the Issuer obtains the use of such office space or equipment for its business.

"Exercise Certificate" has the meaning set forth in **Section 3(a)(i)**.

"Exercise Date" means, for any given exercise of this Warrant Certificate, whether in whole or in part, the date on which the conditions to such exercise as set forth in **Section 3** shall have been satisfied at or prior to 5:00 p.m., Eastern time, on a Trading Day, including, without limitation, the receipt by the Issuer of the Exercise Certificate and the Aggregate Exercise Price.

"Exercise Period" has the meaning set forth in **Section 2(c)**.

"Exercise Price" means, as applicable, the Initial Tranche Exercise Price, the Second Tranche Exercise Price, the Third Tranche Exercise Price or the BD Tranche Exercise Price.

"Fair Market Value" means, as of any particular Trading Day, the VWAP of such equity securities for such day. If the Issuer's equity securities are not listed, quoted or otherwise available for trading, the "Fair Market Value" of the applicable class of equity securities shall be the fair market value, per share, of such equity securities as determined jointly by the Issuer and the Holder.

"Filing Deadline" has the meaning set forth in **Section 6(a)(i)**.

"Fund Administration Event" has the meaning set forth in **Section 3(o)**.

"Fundamental Change" means any event or circumstance that constitutes or results in (i) an Acquisition or (ii) the Liquidation of the Issuer.

"Holder" has the meaning set forth in the preamble.

"Initial Issue Date" has the meaning set forth in the preamble.

"Initial Tranche Exercise Price" means (i) for 50% of the Initial Warrant Securities, a price per share equal to \$4.96 and (ii) for the remaining Initial Warrant Securities, a price per share equal to \$5.58.

"Initial Warrant Securities" has the meaning set forth in **Section 2(b)(i)**.

“**Issue Date**” means the Initial Issue Date or the applicable date that Second Tranche Warrant Securities, Third Tranche Warrant Securities or BD Tranche Warrant Securities are issued pursuant to **Section 2(a)**, as applicable.

“**Issuer**” has the meaning set forth in the preamble and, for the avoidance of doubt, includes any corporation or other entity into which the Issuer may convert, amalgamate or merge following the date hereof.

“**Liquidation**” means the liquidation, dissolution or winding up of the Issuer, whether voluntary or involuntary.

“**Nasdaq**” means The Nasdaq Stock Market, Inc.

“**Options**” means any warrants or other rights or options to subscribe for or purchase Warrant Securities or Convertible Securities.

“**OTC Bulletin Board**” means the National Association of Securities Dealers, Inc. OTC Bulletin Board.

“**Perceptive Fund**” means Perceptive Credit Holdings IV, LP and any Affiliate of Perceptive Credit Holdings IV, LP.

“**Person**” means any individual, sole proprietorship, partnership, limited liability company, corporation, exempted company, exempted limited partnership, joint venture, trust, incorporated organization or government or department or agency thereof.

“**Prospectus**” means the prospectus or prospectuses included in any Registration Statement, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by such Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference in such prospectus or prospectuses.

“**Purchase Rights**” has the meaning set forth in **Section 5**.

“**Registrable Securities**” means (a) any Common Shares, Options or Convertible Securities held by Holder or issuable upon conversion, exercise or exchange of any securities held by Holder as of the Initial Issue Date (including all Warrant Securities issued or issuable upon exercise of this Warrant), and (b) any Common Shares issued or issuable with respect to any shares described in subsection (a) above by way of a stock dividend or stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization (it being understood that for purposes of this Warrant Certificate, Holder shall be deemed to be a holder of Registrable Securities whenever Holder has the right to then acquire or obtain from the Issuer any Registrable Securities, whether or not such acquisition has actually been effected). As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (i) a Registration Statement covering such securities has been declared effective by the SEC and such securities have been disposed of pursuant to such effective Registration Statement, (ii) such securities are sold under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in force) under the Securities Act (“**Rule 144**”) are met, (iii) such

securities are otherwise transferred and such securities may be resold without subsequent registration under the Securities Act, or (iv) such securities shall have ceased to be outstanding.

“**Registration Statement**” means any registration statement of the Issuer which covers any of the Registrable Securities pursuant to the provisions of this Warrant Certificate, including the Prospectus, amendments and supplements to or replacements of such Registration Statement, including post-effective amendments, all exhibits and all materials incorporated by reference in such Registration Statement.

“**Resale Registration Statement**” has the meaning set forth in **Section 6(a)(i)**.

“**Rule 144**” has the meaning set forth within the definition of Registrable Securities.

“**SEC**” means the Securities and Exchange Commission or any successor thereto.

“**Second Tranche Exercise Price**” means (i) for 50% of the Second Tranche Warrant Securities, a price per share equal to the 10-day VWAP ending on the business day immediately preceding the Second Tranche Vesting Date and (ii) for the remaining Second Tranche Warrant Securities, a price per share equal to 1.125 multiplied by the 10-day VWAP ending on the business day immediately preceding the Second Tranche Vesting Date.

“**Second Tranche Vesting Date**” means the date on which the Tranche B Term Loan (as defined in the Credit Agreement) is funded to the Issuer.

“**Second Tranche Warrant Securities**” has the meaning set forth in **Section 2(b)(ii)**.

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

“**Third Tranche Exercise Price**” means (i) for 50% of the Third Tranche Warrant Securities, a price per share equal to the 10-day VWAP ending on the business day immediately preceding the Third Tranche Vesting Date and (ii) for the remaining Third Tranche Warrant Securities, a price per share equal to 1.125 multiplied by the 10-day VWAP ending on the business day immediately preceding the Third Tranche Vesting Date.

“**Third Tranche Warrant Securities**” has the meaning set forth in **Section 2(b)(iii)**.

“**Third Tranche Vesting Date**” means the date on which the Tranche C Term Loan (as defined in the Credit Agreement) is funded to the Issuer.

“**Trading Day**” means, (x) at any time that the Issuer’s equity securities are not being traded on a Trading Market, a Business Day, and (y) at any time that the Issuer’s equity securities are traded on a Trading Market, a day on which the applicable Trading Market is open for trading.

“**Trading Market**” means Nasdaq or, if the Issuer’s equity securities are not listed on Nasdaq, such other principal U.S. or foreign exchange or market (including the OTC Bulletin Board) on which the Issuer’s equity securities are quoted or available for trading.

“*Transfer Agent*” means Computershare Trust Company, National Association or any successor transfer agent of the Issuer.

“*Unlegended Securities*” has the meaning set forth in **Section 12(a)(iii)**.

“*Unrestricted Conditions*” has the meaning set forth in **Section 12(a)(ii)**.

“*VWAP*” means, for any security as of any day or period of days (as the case may be), the volume weighted average sale price on the Trading Market as reported by, or based upon data reported by Bloomberg Financial Markets or an equivalent, reliable reporting service reasonably acceptable to the Holder and the Issuer (collectively, “*Bloomberg*”) or, if no volume weighted average sale price is reported for such security by Bloomberg, then the last closing trade price of such security as reported by Bloomberg, or, if no last closing trade price is reported for such security by Bloomberg, the average of the bid prices of any market makers for such security that are listed in the over the counter market by the Financial Industry Regulatory Authority, Inc. or on the OTC Bulletin Board (or any successor) or in the “pink sheets” (or any successor) by the OTC Markets Group, Inc.

“*Warrant*” or “*Warrant Certificate*” means this Warrant Certificate and all subsequent warrant certificates issued upon division, combination or transfer of, or in substitution for, this Warrant Certificate.

“*Warrant Register*” has the meaning set forth in **Section 7**.

“*Warrant Securities*” means the Common Shares or other equity securities or equivalent interests of the Issuer then purchasable upon the exercise of this Warrant Certificate.

Section 2. Number of Warrant Securities; Term of Warrant Certificate.

(a) **Number of Warrant Securities.** The maximum number of Warrant Securities purchasable by the Holder pursuant to this Warrant Certificate shall be 1,150,000 Common Shares.

(b) **Vesting.** The Warrant Securities that are subject to this Warrant Certificate shall vest and become exercisable in accordance with the following terms:

(i) On the Initial Issue Date, this Warrant Certificate shall be exercisable for 400,000 Warrant Securities (such Warrant Securities, the “*Initial Warrant Securities*”).

(ii) On the Second Tranche Vesting Date, this Warrant Certificate shall be exercisable for 150,000 additional Warrant Securities (such Warrant Securities, the “*Second Tranche Warrant Securities*”).

(iii) On the Third Tranche Vesting Date, this Warrant Certificate shall be exercisable for 150,000 additional Warrant Securities (such Warrant Securities, the “*Third Tranche Warrant Securities*”).

(iv) On the BD Tranche Vesting Date, this Warrant Certificate shall be exercisable for 450,000 additional Warrant Securities (such Warrant Securities, the “*BD Tranche Warrant Securities*”).

The Holder shall be entitled to exercise this Warrant Certificate to purchase all or any portion of the Warrant Securities that are vested and issuable hereunder pursuant to the terms of **Section 2(a)**, and all references herein to the term “Warrant Securities” shall include the Initial Warrant Securities, the Second Tranche Warrant Securities (if any), the Third Tranche Warrant Securities (if any), and the BD Tranche Warrant Securities (if any), calculated as of the relevant date of determination. As promptly as reasonably practicable following the receipt by the Issuer of a written request by the Holder, but in any event not later than five Business Days thereafter, the Issuer shall furnish to the Holder a certificate executed by any duly authorized officer of the Issuer certifying the number of Warrant Securities for which this Warrant Certificate is then exercisable, or the amount, if any, of other securities or assets then issuable upon exercise of this Warrant Certificate.

(c) **Exercise Period.** Subject to the terms and conditions hereof, at any time or from time to time on or after the applicable Issue Date and prior to 5:00 p.m., Eastern time, on the tenth anniversary of such date or, if such day is not a Trading Day, on the next preceding Trading Day (the “*Exercise Period*”), the Holder of this Warrant Certificate may exercise this Warrant Certificate for all or any part of the Warrant Securities purchasable hereunder (subject to adjustment as provided herein); provided that, the Exercise Period with respect to the Initial Warrant Securities shall expire on April 25, 2035.

Section 3. Exercise of Warrant Certificate.

(a) **Exercise Procedure.** This Warrant Certificate may be exercised from time to time on any Trading Day during the Exercise Period, for all or any part of the vested and unexercised Warrant Securities, upon:

(i) delivery to the Issuer at its registered office of an Exercise Certificate in the form attached hereto as **Exhibit A** (each, an “*Exercise Certificate*”), duly completed (including specifying the number of Warrant Securities to be purchased) and executed;

(ii) payment to the Issuer of the Aggregate Exercise Price in accordance with **Section 3(b)**; and

(iii) delivery to the Issuer of any other documentation required by the Transfer Agent in connection with exercise of this Warrant Certificate or the issuance of the applicable Warrant Securities.

(b) **Payment of the Aggregate Exercise Price.** Payment of the Aggregate Exercise Price shall be made, at the option of the Holder as expressed in the Exercise Certificate, by any of the following methods:

(i) by delivery to the Issuer of a certified or official bank check payable to the order of the Issuer or by wire transfer of immediately available funds to an account designated in writing by the Issuer, in the amount of such Aggregate Exercise Price; or

(ii) in lieu of payment of the Aggregate Exercise Price in the manner as specified in **Section 3(b)(i)**, but otherwise in accordance with the requirements of **Section 3**, the Holder may elect to surrender in payment of the Aggregate Exercise Price for the Warrant Securities then issuable upon exercise of this Warrant Certificate a number of Warrant Securities equal in value to the Aggregate Exercise Price of the Warrant Securities being purchased (such surrender and payment a “*Cashless Exercise*”), in which case, the Issuer shall instruct the Transfer Agent to issue to the Holder such number of Warrant Securities in book entry form and Holder shall irrevocably surrender for no value the number of Warrant Securities subject to this Warrant Certificate as are computed using the following formula:

$$X = Y[(A-B)/A]$$

where:

X = the number of Warrant Securities to be issued to the Holder;

Y = the number of Warrant Securities with respect to which this Warrant Certificate is being exercised (inclusive of the Warrant Securities subject to this Warrant Certificate surrendered to the Issuer in payment of the Aggregate Exercise Price);

A = Fair Market Value per Warrant Security as of the Exercise Date;

B = the Exercise Price; and

Y-X = the number of Warrant Securities subject to this Warrant Certificate to be irrevocably surrendered for no value by the Holder in exchange for X number of Warrant Securities.

For purposes of Rule 144, to the extent permitted by applicable law, it is acknowledged and agreed that (i) the Warrant Securities issuable upon any exercise of this Warrant Certificate in any Cashless Exercise transaction shall be deemed to have been acquired on the applicable Issue Date, and (ii) the holding period for any Warrant Securities issuable upon the exercise of this Warrant Certificate in any Cashless Exercise transaction shall be deemed to have commenced on the applicable Issue Date; provided that the Issuer makes no representation or warranty regarding the commencement of the holding period of any Warrant Securities or the availability of Rule 144 (or any equivalent rule).

(c) Delivery of Warrant Securities.

(i) Following any Exercise Date, the Issuer shall, on or before the applicable Delivery Deadline, issue and deliver (or cause its Transfer Agent to issue and deliver) in accordance with the terms hereof to or upon the order of the Holder that number of Warrant Securities for the portion of this Warrant Certificate so exercised on such Exercise Date in book

entry form, and shall register (or cause its Transfer Agent to register) such securities in the register of shareholders of the Issuer in the name of the Holder or, subject to compliance with **Section 8**, in such other Person's name as shall be designated in the Exercise Certificate. If requested in writing by the Holder, the Issuer shall deliver to the Holder evidence of the issuance of the Warrant Securities purchased in connection with such exercise in a form and substance reasonably acceptable to the Holder. This Warrant Certificate shall be deemed to have been exercised and the Warrant Securities shall be deemed to have been issued, and the Holder or any other Person so designated to be named therein shall be deemed to have become a holder of record of such Warrant Securities for all purposes, as of the applicable Issue Date.

(ii) If, at the time of exercise, the Issuer has a Transfer Agent, then upon the exercise this Warrant Certificate in whole or in part, the Issuer shall, at its own cost and expense, take all necessary action, including obtaining and delivering an opinion of counsel, to assure that the Transfer Agent shall issue Warrant Securities in the name of the Holder (or its nominee) or such other Persons as designated by the Holder (in compliance with **Section 8**) and in such denominations to be specified in the applicable Exercise Certificate. The Issuer represents and warrants that no instructions contrary to the foregoing instructions will be given to the Transfer Agent and that, if the Unrestricted Conditions are met, the Warrant Securities will be free-trading, and freely transferable, and will not contain a legend restricting the resale or transferability of the Warrant Securities.

(iii) In addition to any other remedies which may be available to the Holder, in the event of any Delivery Failure relating to the issuance of Warrant Securities upon exercise of this Warrant Certificate, the Holder will be entitled to revoke all or part of the relevant Exercise Certificate by delivery of a notice to such effect to the Issuer whereupon the Issuer and the Holder shall each be restored to their respective positions immediately prior to the delivery of such Exercise Certificate.

(d) **Fractional Warrant Securities.** No fractional Warrant Securities or scrip representing fractional Warrant Securities shall be issued upon the exercise of this Warrant Certificate. As to any fraction of a Warrant Security which the Holder would otherwise be entitled to upon exercise of this Warrant Certificate, the Issuer shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Fair Market Value of such Warrant Security or round up to the next whole share.

(e) Surrender of this Warrant Certificate; Delivery of New Warrant Certificate.

(i) Subject to **Section 3(e)(ii)**, the Holder shall not be required to physically surrender this Warrant Certificate to the Issuer until the Holder has purchased (or acquired or surrendered pursuant to a Cashless Exercise) all of the Warrant Securities available hereunder and this Warrant Certificate has been exercised in full, in which case, the Holder shall, at the written request of the Issuer, surrender this Warrant Certificate to the Issuer for cancellation within three (3) Business Days after the date the final Exercise Certificate is delivered to the Issuer. Partial exercises of this Warrant Certificate resulting in purchases (or acquisition pursuant to a Cashless Exercise) of a portion of the total number of Warrant Securities available hereunder shall have the effect of lowering the outstanding number of Warrant Securities purchasable hereunder in an amount equal to the applicable number of Warrant Securities purchased (or acquired or

surrendered pursuant to a Cashless Exercise). The Holder and the Issuer shall maintain (or cause to be maintained, including through a Transfer Agent) records showing the number of Warrant Securities purchased, otherwise acquired or surrendered and the date of such purchases, other acquisitions or surrenders. The Holder and any assignee, by acceptance of this Warrant Certificate, acknowledge and agree that, by reason of the provisions of this **Section 3(e)**, following the purchase (or acquisition or surrender pursuant to a Cashless Exercise) of a portion of the Warrant Securities hereunder, the number of Warrant Securities available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

(ii) Notwithstanding the foregoing, the Holder may request that the Issuer (and the Issuer shall), following Holder's surrender of this Warrant Certificate to the Issuer, deliver to the Holder a new Warrant Certificate evidencing the rights of the Holder to purchase the unexpired and unexercised Warrant Securities called for by this Warrant Certificate. Unless otherwise agreed upon by the Holder in its sole discretion, such new Warrant Certificate shall in all other respects be identical to this Warrant Certificate.

(f) **Valid Issuance of Warrant Certificate and Warrant Securities; Payment of Taxes; Covenants.** The Issuer hereby represents, covenants and agrees as of the date hereof, and as of each subsequent Issue Date:

(i) The transactions contemplated by this Warrant Certificate are within the Issuer's organizational powers and have been duly authorized by all necessary corporate action of the Issuer and, if required, by all necessary shareholder action. This Warrant Certificate has been duly executed and delivered by the Issuer and constitutes a legal, valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms, except as such enforceability may be limited by (A) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (B) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(ii) This Warrant Certificate is, and any Warrant Certificate issued in substitution for or replacement of this Warrant Certificate delivered in accordance with **Section 3(e)(ii)** shall be, upon issuance, duly authorized and validly issued.

(iii) All Warrant Securities issuable upon the exercise of this Warrant Certificate (or any substitute or replacement Warrant Certificate delivered in accordance with **Section 3(e)(ii)**) pursuant to the terms hereof shall be, upon issuance, and the Issuer shall take all such actions as may be necessary or appropriate in order that such Warrant Securities are, validly issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any shareholder of the Issuer and free and clear of all liens, except for restrictions on transfer provided for herein or in any lock-up agreement to which the Holder is a party, or under applicable federal and state securities laws.

(iv) The Issuer shall take all such actions as may be necessary to ensure that all such Warrant Securities are issued without violation by the Issuer of any applicable law or governmental regulation, or any requirements of any Trading Market upon which Common Shares, or other securities constituting Warrant Securities may be listed at the time of such exercise (except

for official notice of issuance which shall be promptly delivered by the Issuer upon each such issuance).

(v) Each of the Issuer, on the one hand, and the Holder, on the other, shall bear all of their and their respective Affiliates' taxes that may be imposed with respect to the issuance or delivery of Warrant Securities upon exercise of this Warrant Certificate.

(g) **Conditional Exercise.** Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant Certificate is to be made in connection with a Fundamental Change, such exercise may, at the election of the Holder, be conditioned upon the consummation of such transaction, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(h) **Reservation of Warrant Securities.** During the Exercise Period the Issuer shall at all times reserve and keep available out of its authorized but unissued Common Shares or other securities or equivalent interests constituting Warrant Securities, solely for the purpose of issuance upon the exercise of this Warrant Certificate, the maximum number of Warrant Securities issuable upon the exercise of this Warrant Certificate. The Issuer shall take all such actions as may be necessary or appropriate in order that the Issuer may validly and legally issue fully paid and nonassessable Common Shares upon the exercise of this Warrant Certificate without the need for the passing of any further resolutions of its shareholders or obtaining any further consents from any party.

(i) **Delivery of Electronic Securities.** To the extent the Unrestricted Conditions are satisfied with respect to the Warrant Securities to be issued to the Holder upon the exercise of this Warrant Certificate and Holder has supplied the requisite information to Issuer for delivery to its prime broker, the Issuer shall use its commercially reasonable best efforts to cause the Transfer Agent to electronically transmit such Warrant Securities to the Holder by crediting the account of the Holder's prime broker with the DTC through its Deposit Withdrawal Agent Commission ("*DWAC*") system. The time periods for delivery and penalties described herein shall apply to the electronic transmittals described herein.

(j) **Make Whole.** In addition to any other rights available to the Holder, if, as a result of a Delivery Failure in respect of Warrant Securities, the Holder is required by its broker to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, Warrant Securities to deliver in satisfaction of a sale anticipated to be made by the Holder of all or portion of such Warrant Securities which are the subject of such Delivery Failure (an "*Anticipated Sale*"), then the Issuer shall (i) pay to the Holder, in cash, an amount equal to the reasonable and documented out-of-pocket costs and expenses incurred by Holder in covering the trade (including reasonable and documented brokerage fees, if any), and (ii) at the option of the Holder, either reinstate the portion of this Warrant Certificate and equivalent number of Warrant Securities in respect of which such Delivery Failure occurred, or deliver to the Holder the number of Warrant Securities that would have been issued had the Issuer timely complied with its obligations hereunder to issue such Warrant Securities upon such exercise. For the avoidance of doubt, this **Section 3(j)** is intended as a "make whole" and shall not be interpreted in any manner that would result in the Holder being in a better economic position following application of the provisions of this **Section 3(j)** than if there had not been a Delivery Failure. Holder shall provide

the Issuer written notice indicating the amounts payable to the Holder, together with applicable confirmations and other evidence reasonably requested by the Issuer. Nothing herein shall limit the Holder's right to pursue any other remedies available to it hereunder at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to any Delivery Failure.

(k) **Dispute Resolution.** In the case of any dispute as to the determination of Fair Market Value, the arithmetic calculation of the Exercise Price or any other computation required to be made hereunder, in the event the Holder and the Issuer, negotiating in good faith, are unable to settle such dispute within five (5) Business Days (or such longer period as the parties may agree), then either party may elect to submit the disputed matter(s) for resolution by an independent accountant, appraiser or investment bank (with relevant experience) acceptable to the other party. Such independent party's determination of such disputed matter(s) shall be binding upon all parties absent demonstrable error, and the Issuer and the Holder shall each pay one half of the fees and costs of such independent party.

(l) **Automatic Exercise at Expiration or Liquidation.** If a Liquidation occurs with respect to the Issuer at any time prior to the expiration of any applicable Exercise Period and there remain any vested Warrant Securities subject to this Warrant Certificate, or if immediately prior to the expiration of any applicable Exercise Period there remain any vested Warrant Securities subject to this Warrant Certificate, this Warrant Certificate shall be deemed to be automatically exercised in full in accordance with the Cashless Exercise provisions set forth herein for the full number of remaining vested Warrant Securities, without the requirement for the delivery of an Exercise Certificate, and if the automatic exercise is in connection with a Liquidation, the Holder shall receive its pro rata share of the proceeds from such Liquidation as if the vested Warrant Securities were outstanding immediately prior to the Liquidation (subject to set-off against the Aggregate Exercise Price); provided that, unless the giving of notice is not practicable due to the circumstances of the Liquidation, the Issuer shall give the Holder notice of any pending Liquidation as soon as practicable but in any event not less than 10 Business Days prior to the anticipated consummation of the Liquidation and if the Holder does not wish to automatically have this Warrant Certificate exercised, the Holder may opt out of such automatic exercise by written notice to the Issuer in advance of the consummation of the Liquidation.

(m) **Treatment of Warrant Certificate Upon Acquisition of Issuer.**

(i) For the purpose of this Warrant Certificate, "**Acquisition**" means any transaction or series of related transactions involving: (w) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Issuer to one or more third parties not Controlled by the Issuer; (x) any amalgamation, merger or consolidation of the Issuer into or with another Person or entity (other than an amalgamation, merger or consolidation effected exclusively to change the Issuer's domicile), or any other reorganization, in which the shareholders of the Issuer immediately prior to such amalgamation, merger, consolidation or reorganization, own less than a majority of the Issuer's (or the amalgamated company, surviving or successor entity's) outstanding voting power immediately after such amalgamation, merger, consolidation or reorganization; and (y) any sale or other transfer by the shareholders of the Issuer to one or more Persons or group of Persons not Controlled by the Issuer of equity securities or equivalent interests representing a majority of the Issuer's then-total outstanding combined voting power.

(ii) In the event of an Acquisition in which the consideration to be received by the Issuer's shareholders consists solely of cash (a "**Cash Acquisition**"), either (x) Holder shall exercise this Warrant Certificate pursuant to **Section 3** and such exercise will be deemed effective immediately prior to and contingent upon the consummation of such Cash Acquisition or (y) if Holder elects not to exercise the Warrant, this Warrant will expire immediately prior to the consummation of such Cash Acquisition.

(iii) The Issuer shall provide Holder with written notice of its request relating to the Cash Acquisition (together with such information as Holder may reasonably require regarding the treatment of this Warrant in connection with such contemplated Cash Acquisition giving rise to such notice), which is to be delivered to Holder not less than 10 days prior to the closing of the proposed Cash Acquisition unless the giving of such notice is not legally permissible in connection with such Cash Acquisition. Notwithstanding the foregoing, if, immediately prior to the Cash Acquisition, the Fair Market Value of one Warrant Security would be greater than the Exercise Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant a Cashless Exercise with respect to all Warrant Securities for which it shall not previously have been exercised, and the Issuer shall promptly notify the Holder of the number of Common Shares (or such other securities) issued upon such exercise to the Holder.

(iv) Upon the closing of any Acquisition other than a Cash Acquisition, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Warrant Securities issuable upon exercise of the unexercised portion of this Warrant as if such Warrant Securities were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant.

(n) **Holder's Exercise Limitations.** The Issuer shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to this **Section 3** or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Exercise Certificate, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of Common Share equivalents beneficially owned by the Holder and its Affiliates shall include the number of Common Share equivalents issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of Common Share equivalents which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates, and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Issuer (including, without limitation, any other Common Share equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates. Except as set forth in the preceding sentence, for purposes of this **Section 3(n)**, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Issuer is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the

limitation contained in this **Section 3(n)** applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of an Exercise Certificate shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Issuer shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this **Section 3(n)**, in determining the number of outstanding Common Shares, Holder may rely on the number of outstanding Common Shares as reflected in the most recent public announcement by the Issuer. Upon the written request of a Holder, the Issuer shall within five (5) Business Days confirm orally and in writing to the Holder the number of Common Shares then outstanding. In any case, the number of outstanding Common Shares shall be determined after giving effect to the conversion or exercise of securities of the Issuer, including this Warrant, by the Holder or its Affiliates since the date as of which such number of outstanding Common Shares was reported. The "**Beneficial Ownership Limitation**" shall be 9.99% of the number of Common Shares and Common Share equivalents outstanding immediately after giving effect to the applicable issuance of Warrant Securities issuable upon exercise of this Warrant if at the time of exercise the Issuer is a "reporting issuer" under the Exchange Act. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this **Section 3(n)** to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

(o) **Holder Cancellation Right.** Notwithstanding the other rights granted to Holder herein, so long as the Holder of this Warrant Certificate is a Perceptive Fund, then following a Fund Administration Event (as defined below), the Holder shall have the right (the "**Cancellation Right**"), without the consent of the Issuer or any other Person, to irrevocably cancel and render void this Warrant Certificate. The Holder may exercise its Cancellation Right by written notice to the Issuer (the "**Cancellation Notice**"), which notice shall specify the circumstances of the Fund Administration Event. The cancellation contemplated by this **Section 3(o)** shall be effective as of the date specified in the Cancellation Notice and the Holder shall remain liable for all obligations and liabilities as Holder of this Warrant Certificate through such effective date specified in the Cancellation Notice. As used in this **Section 3(o)**, "**Fund Administration Event**" means that the Holder has entered its wind down phase and the Holder has reasonably determined in good faith that the value of this Warrant Certificate is *de minimis*. For the avoidance of doubt, if a Perceptive Fund is no longer the Holder of this Warrant Certificate, the rights under this **Section 3(o)** shall automatically terminate.

Section 4. Adjustments. In order to prevent dilution of the rights granted under this Warrant Certificate, the number of Warrant Securities issuable upon exercise of this Warrant Certificate shall be subject to adjustment from time to time as provided in this **Section 4**.

(a) **Other Dividends and Distributions.** If the Issuer shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the determination of holders of equity securities or equivalent interests entitled to receive, a dividend or any other distribution payable in cash, securities or interests of the Issuer (other than a dividend or distribution of Common Shares, Options or Convertible Securities in respect of outstanding equity securities or equivalent interests of the Issuer) or other property, then, and in each such event, the Issuer shall ensure that provisions are made so that the Holder shall receive upon exercise of the vested portion of this Warrant Certificate, in addition to the number of Warrant Securities receivable thereupon, the kind and amount of cash, securities or interests of the Issuer or other property which the Holder would have been entitled to receive had the vested portion of this Warrant Certificate been exercised in full into Warrant Securities on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the Exercise Date, retained such cash, securities, interests or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this **Section 4** with respect to the rights of the Holder.

(b) **Adjustment to Number of Warrant Securities Upon Dividend, Subdivision or Combination of Common Shares.** If the Issuer shall, at any time or from time to time after the Issue Date, (i) pay a bonus issue, dividend or make any other distribution upon the Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable) payable in Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable) or in Options or Convertible Securities, or (ii) subdivide (by any equity split or equivalent interest split, recapitalization or otherwise) its outstanding Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable) into a greater number of shares, the number of Warrant Securities issuable upon exercise of this Warrant Certificate immediately prior to any such bonus issue, dividend, distribution or subdivision shall be proportionately increased and the Exercise Price applicable to each such Warrant Security shall be proportionately decreased. If the Issuer at any time combines (by combination, consolidation, reverse equity split or otherwise) its outstanding Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable) into a smaller number of shares, the number of Warrant Securities issuable upon exercise of this Warrant Certificate immediately prior to such combination shall be proportionately decreased and the Exercise Price applicable to each such Warrant Security shall be proportionately increased. Any adjustment under this **Section 4(b)** shall become automatically effective upon the effectiveness of such bonus issue, dividend, subdivision, consolidation or combination.

(c) **Adjustment to Number of Warrant Securities Upon Reorganization, Reclassification, Consolidation, Amalgamations or Merger.**

(i) Unless the Holder otherwise consents (in its sole discretion), the event of any (A) capital reorganization of the Issuer, (B) reclassification of the equity securities or equivalent interests of the Issuer (other than as a result of a bonus issue, dividend or subdivision, split-up, consolidation or combination of equity securities or equivalent interests already covered by this **Section 4**), (C) Fundamental Change or (D) other similar transaction (other than a Cash Acquisition covered by **Section 3(m)** (Treatment of Warrant Upon an Acquisition), or an event covered by **Section 4(b)** (Adjustment Upon Dividend, Subdivision, or Combination of Common Shares)), including a Liquidation or an acquisition, amalgamation, merger, or other transaction in

which the Warrant Certificate is not exercised, in each case which entitles the holders of Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable) to receive (either directly or upon subsequent liquidation) securities, interests or assets with respect to or in exchange for Common Shares (or other shares of the Issuer's share capital into which this Warrant is then exercisable):

(1) this Warrant Certificate shall, immediately after such reorganization, reclassification, consolidation, amalgamation, merger, sale or similar transaction, remain outstanding and shall thereafter, in lieu of or in addition to (as the case may be) the number of Warrant Securities then exercisable under this Warrant Certificate, be exercisable for the kind and number of equity securities or equivalent interest or other assets of the Issuer or of the successor Person resulting from such transaction to which the Holder would have been entitled upon such reorganization, reclassification, consolidation, amalgamation, merger, sale or similar transaction if the Holder had exercised this Warrant Certificate in full immediately prior to the time of such reorganization, reclassification, consolidation, amalgamation, merger, sale or similar transaction and acquired the applicable number of Warrant Securities then issuable hereunder as a result of such exercise (without taking into account any limitations or restrictions on the exercisability of this Warrant Certificate); and

(2) appropriate adjustment (in form and substance reasonably satisfactory to the Holder and Issuer) shall be made with respect to the Holder's rights under this Warrant Certificate to insure that the provisions of this **Section 4** shall thereafter be applicable, as nearly as possible, to this Warrant Certificate in relation to any securities or assets thereafter acquirable upon exercise of this Warrant Certificate.

The provisions of this **Section 4(c)** shall similarly apply to successive reorganizations, reclassifications, consolidations, amalgamations, mergers, sales or similar transactions.

(ii) Notwithstanding anything to the contrary contained herein, with respect to any event or other transaction contemplated by this **Section 4(c)**, the Holder shall have the right to elect, upon written notice delivered to the Issuer prior to the consummation of such event or transaction, to exercise its rights under **Section 2** instead of giving effect to **Section 4(c)(i)**.

(d) **Adjustment to Exercise Price Upon Issuance of Common Shares.** Except as provided in **Section 4(f)** and except in the case of an event described in **Section 4(h)**, if the Issuer shall, at any time or from time to time after the Initial Issue Date, issue or sell, or in accordance with **Section 4(g)** is deemed to have issued or sold, any Common Shares without consideration or for consideration per share less than the Exercise Price in effect immediately prior to such issuance or sale (or deemed issuance or sale), then immediately upon such issuance or sale (or deemed issuance or sale), the Exercise Price in effect immediately prior to such issuance or sale (or deemed issuance or sale) shall be reduced (and in no event increased) to an Exercise Price equal to the quotient obtained by dividing:

(i) the sum of (A) the product obtained by multiplying the Common Stock Deemed Outstanding immediately prior to such issuance or sale (or deemed issuance or sale) by

the Exercise Price then in effect plus (B) the aggregate consideration, if any, received by the Issuer upon such issuance or sale (or deemed issuance or sale); by

(ii) the sum of (A) the Common Stock Deemed Outstanding immediately prior to such issuance or sale (or deemed issuance or sale) plus (B) the aggregate number of Common Shares issued or sold (or deemed issued or sold) by the Issuer in such issuance or sale (or deemed issuance or sale).

(e) **RESERVED.**

(f) **Exceptions To Adjustment Upon Issuance of Common Shares.** Anything herein to the contrary notwithstanding, there shall be no adjustment to the Exercise Price with respect to any Excluded Issuance.

(g) **Effect of Certain Events on Adjustment to Exercise Price.** For purposes of determining the adjusted Exercise Price under **Section 4(d)** hereof, the following shall be applicable:

(i) Issuance of Options. If the Issuer shall, at any time or from time to time after the Initial Issue Date, in any manner grant or sell (whether directly or by assumption in a merger or otherwise) any Options, whether or not such Options or the right to convert or exchange any Convertible Securities issuable upon the exercise of such Options are immediately exercisable, and the price per share (determined as provided in this paragraph and in **Section 4(g)(v)**) for which Common Shares are issuable upon the exercise of such Options or upon the conversion or exchange of Convertible Securities issuable upon the exercise of such Options is less than the Exercise Price in effect immediately prior to the time of the granting or sale of such Options, then the total maximum number of Common Shares issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued as of the date of granting or sale of such Options (and thereafter shall be deemed to be outstanding for purposes of adjusting the Exercise Price under **Section 4(d)**), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of **Section 4(d)**) of (x) the total amount, if any, received or receivable by the Issuer as consideration for the granting or sale of all such Options, plus (y) the minimum aggregate amount of additional consideration payable to the Issuer upon the exercise of all such Options, plus (z) in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Issuer upon the issuance or sale of all such Convertible Securities and the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of Common Shares issuable upon the exercise of all such Options or upon the conversion or exchange of all Convertible Securities issuable upon the exercise of all such Options. Except as otherwise provided in **Section 4(g)(iii)**, no further adjustment of the Exercise Price shall be made upon the actual issuance of Common Shares or of Convertible Securities upon exercise of such Options or upon the actual issuance of Common Shares upon conversion or exchange of Convertible Securities issuable upon exercise of such Options.

(ii) Issuance of Convertible Securities. If the Issuer shall, at any time or from time to time after the Initial Issue Date, in any manner grant or sell (whether directly or by

assumption in a merger or otherwise) any Convertible Securities, whether or not the right to convert or exchange any such Convertible Securities is immediately exercisable, and the price per share (determined as provided in this paragraph and in **Section 4(g)(v)**) for which Common Shares are issuable upon the conversion or exchange of such Convertible Securities is less than the Exercise Price in effect immediately prior to the time of the granting or sale of such Convertible Securities, then the total maximum number of Common Shares issuable upon conversion or exchange of the total maximum amount of such Convertible Securities shall be deemed to have been issued as of the date of granting or sale of such Convertible Securities (and thereafter shall be deemed to be outstanding for purposes of adjusting the Exercise Price pursuant to **Section 4(d)**), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of **Section 4(d)**) of (x) the total amount, if any, received or receivable by the Issuer as consideration for the granting or sale of such Convertible Securities, plus (y) the minimum aggregate amount of additional consideration, if any, payable to the Issuer upon the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of Common Shares issuable upon the conversion or exchange of all such Convertible Securities. Except as otherwise provided in **Section 4(g)(iii)**, no further adjustment of the Exercise Price shall be made upon the actual issuance of Common Shares upon conversion or exchange of such Convertible Securities or the issue or sale of Convertible Securities upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the Exercise Price have been made pursuant to the other provisions of this **Section 4(g)**.

(iii) Change in Terms of Options or Convertible Securities. Upon any change in any of (A) the total amount received or receivable by the Issuer as consideration for the granting or sale of any Options or Convertible Securities referred to in **Section 4(g)(i)** or **Section 4(g)(ii)** hereof, (B) the minimum aggregate amount of additional consideration, if any, payable to the Issuer upon the exercise of any Options or upon the issuance, conversion or exchange of any Convertible Securities referred to in **Section 4(g)(i)** or **Section 4(g)(ii)** hereof, (C) the rate at which Convertible Securities referred to in **Section 4(g)(i)** or **Section 4(g)(ii)** hereof are convertible into or exchangeable for Common Shares, or (D) the maximum number of Common Shares issuable in connection with any Options referred to in **Section 4(g)(i)** hereof or any Convertible Securities referred to in **Section 4(g)(ii)** hereof (in each case, other than in connection with an Excluded Issuance), then (whether or not the original issuance or sale of such Options or Convertible Securities resulted in an adjustment to the Exercise Price pursuant to this **Section 4**) the Exercise Price in effect at the time of such change shall be adjusted or readjusted, as applicable, to the Exercise Price which would have been in effect at such time pursuant to the provisions of this **Section 4** had such Options or Convertible Securities still outstanding provided for such changed consideration, conversion rate, or maximum number of shares, as the case may be, at the time initially granted, issued, or sold, but only if as a result of such adjustment or readjustment the Exercise Price then in effect is reduced.

(iv) Treatment of Expired or Terminated Options or Convertible Securities. Upon the expiration or termination of any unexercised Option (or portion thereof) or any unconverted or unexchanged Convertible Security (or portion thereof) for which any adjustment (either upon its original issuance or upon a revision of its terms) was made pursuant to this **Section 4** (including upon the redemption or purchase for consideration of all or any portion of such Option or Convertible Security by the Issuer), the Exercise Price then in effect hereunder shall forthwith be changed pursuant to the provisions of this **Section 4** to the Exercise Price which

would have been in effect at the time of such expiration or termination had such unexercised Option (or portion thereof) or unconverted or unexchanged Convertible Security (or portion thereof), to the extent outstanding immediately prior to such expiration or termination, never been issued.

(v) Calculation of Consideration Received. If the Issuer shall, at any time or from time to time after the Initial Issue Date, issue or sell, or is deemed to have issued or sold in accordance with **Section 4(g)**, any Common Shares, Options, or Convertible Securities: (A) for cash, the consideration received therefor shall be deemed to be the net amount received by the Issuer therefor; (B) for consideration other than cash, the amount of the consideration other than cash received by the Issuer shall be the fair value of such consideration, except where such consideration consists of marketable securities, in which case the amount of consideration received by the Issuer shall be the market price (as reflected on any securities exchange, quotation system or association, or similar pricing system covering such security) for such securities as of the end of business on the date of receipt of such securities; (C) for no specifically allocated consideration in connection with an issuance or sale of other securities of the Issuer, together comprising one integrated transaction, the amount of the consideration therefor shall be deemed to be the fair value of such portion of the aggregate consideration received by the Issuer in such transaction as is attributable to such Common Shares, Options, or Convertible Securities, as the case may be, issued in such transaction; or (D) to the owners of the non-surviving entity in connection with any merger in which the Issuer is the surviving corporation, the amount of consideration therefor shall be deemed to be the fair value of such portion of the net assets and business of the non-surviving entity as is attributable to such Common Shares, Options, or Convertible Securities, as the case may be, issued to such owners. The net amount of any cash consideration and the fair value of any consideration other than cash or marketable securities shall be determined in good faith jointly by the Board and the Holder.

(vi) Record Date. For purposes of any adjustment to the Exercise Price or the number of Warrant Securities in accordance with this **Section 4**, in case the Issuer shall take a record of the holders of its Common Shares for the purpose of entitling them (A) to receive a dividend or other distribution payable in Common Shares, Options, or Convertible Securities or (B) to subscribe for or purchase Common Shares, Options, or Convertible Securities, then such record date shall be deemed to be the date of the issue or sale of the Common Shares deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(vii) Treasury Shares. The number of Common Shares outstanding at any given time shall not include shares owned or held by or for the account of the Issuer or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof or the transfer of such shares among the Issuer and its wholly-owned subsidiaries) shall be considered an issue or sale of Common Shares for the purpose of this **Section 4**.

(h) **Certain Events**. Upon the occurrence of any event of the type contemplated by the provisions of this **Section 4** but not expressly provided for herein, the Issuer shall make an appropriate adjustment in the number of Warrant Securities issuable upon exercise of this Warrant

Certificate and the Exercise Price applicable thereto so as to protect the rights of the Holder in a manner consistent with the provisions of this **Section 4**.

(i) Certificate as to Adjustment.

(i) As promptly as reasonably practicable following any adjustment of the number of Warrant Securities issuable upon exercise of this Warrant Certificate, but in any event not later than five Business Days thereafter, the Issuer shall furnish to the Holder a certificate of an executive officer of the Issuer setting forth in reasonable detail such adjustment and the facts upon which it is based and certifying the calculation thereof.

(ii) As promptly as reasonably practicable following the receipt by the Issuer of a written request by the Holder, but in any event not later than five Business Days thereafter, the Issuer shall furnish to the Holder a certificate of an executive officer of the Issuer certifying the number of Warrant Securities for which this Warrant Certificate is exercisable, or the amount, if any, of other securities, interests or assets then issuable upon exercise of this Warrant Certificate.

(j) **Notices.** In the event that the Issuer shall take a record of the holders of its Common Shares (or other securities or interests at the time issuable upon exercise of this Warrant Certificate):

(i) for the purpose of entitling or enabling them to receive any dividend or other distribution, to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any securities or interests, or to receive any other security; or

(ii) approving or enabling any reorganization or restructuring of the Issuer, any reclassification of the Common Shares or any Fundamental Change;

then, and in each such case, the Issuer shall, to the extent legally permissible and reasonably practicable, send or cause to be sent to the Holder at least ten (10) days prior to the applicable record date or the applicable expected effective date, as the case may be, for the event, a written notice specifying, as the case may be, (A) the record date for such dividend, distribution, meeting or consent or other right or action, and a description of such dividend, distribution or other right or action to be taken at such meeting or by written consent, or (B) the effective date on which such Fundamental Change is proposed to take place, and the date, if any is to be fixed, as of which the books of the Issuer shall close or a record shall be taken with respect to which the holders of record of Common Shares (or such other securities or interests at the time issuable upon exercise of this Warrant Certificate) shall be entitled to exchange their Common Shares (or such other securities or interests) for securities, interests or other property deliverable upon such Fundamental Change, and the amount per equity security or equivalent interest and character of such exchange applicable to this Warrant Certificate and the Warrant Securities.

Section 5. Purchase Rights. In addition to any adjustments pursuant to **Section 4**, if at any time during an applicable Exercise Period the Issuer grants the right to purchase, or otherwise issues or sells any Common Shares, Options, Convertible Securities or rights to purchase securities, interests or other property *pro rata* to the record holders of Common Shares (the "**Purchase Rights**"), then the Holder shall be entitled (but not required) to acquire, upon the same terms applicable to the record holders of Common Shares, the aggregate Purchase Rights which

the Holder would have acquired if the Holder had held the number of Warrant Securities acquirable upon complete exercise of this Warrant Certificate immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Shares are to be determined for the grant, issue or sale of such Purchase Rights.

Section 6. Registration Rights.

(a) Registration.

(i) The Issuer shall prepare and file or cause to be prepared and filed with the SEC, no later than sixty (60) days of the Initial Issue Date (the “**Filing Deadline**”), a registration statement for an offering to be made on a continuous basis pursuant to Rule 415 of the Securities Act registering the resale from time to time by the Holder of all Registrable Securities held by the Holder (the “**Resale Registration Statement**”). The Resale Registration Statement shall be on Form S-3 or, if the use of Form S-3 is not then available to the Issuer, on Form S-1 or such other appropriate form permitting registration of such Registrable Securities for resale by the Holder. The Issuer shall use reasonable best efforts to cause the Resale Registration Statement to be declared effective as soon as possible after filing, but in no event shall the Resale Registration Statement be declared effective later than the earlier of (i) sixty (60) days following the Filing Deadline or (ii) ten (10) Business Days after the SEC notifies the Issuer that it will not review the Resale Registration Statement, if applicable (the “**Effectiveness Deadline**”); provided, that the Effectiveness Deadline shall be extended by no more than ninety (90) days after the Filing Deadline if the Registration Statement is reviewed by, and receives comments from, the SEC. Once effective, the Issuer shall keep the Resale Registration Statement continuously effective and supplemented and amended to the extent necessary to ensure that such Registration Statement is available or, if not available, to ensure that another registration statement is available, under the Securities Act at all times until such date as all Registrable Securities covered by the Resale Registration Statement have been disposed of in accordance with the intended method(s) of distribution set forth in such Registration Statement or such securities have been requested to be withdrawn from registration by the Holder (the “**Effectiveness Period**”). The Resale Registration Statement shall contain a prospectus in such form as to permit the Holder to sell such Registrable Securities pursuant to Rule 415 under the Securities Act (or any successor or similar provision adopted by the SEC then in effect) at any time beginning on the effective date for such Registration Statement, and shall provide that such Registrable Securities may be sold pursuant to any method or combination of methods legally available to, and requested by, the Holder.

(ii) The Issuer shall notify the Holder in writing of the effectiveness of the Resale Registration Statement as soon as practicable, and in any event within one (1) Business Day after the Resale Registration Statement becomes effective, and shall furnish to Holder, without charge, such number of copies of the Resale Registration Statement (including any amendments, supplements and exhibits), the prospectus contained therein (including each preliminary prospectus and all related amendments and supplements) and any documents incorporated by reference in the Resale Registration Statement or such other documents as the Holder may reasonably request in order to facilitate the sale of the Registrable Securities in the manner described in the Resale Registration Statement.

(iii) Subject to the provisions of **Section 6(a)(i)** above, the Issuer shall promptly prepare and file with the SEC from time to time such amendments and supplements to (or replacements of) the Resale Registration Statement and prospectus used in connection therewith as may be necessary to keep the Resale Registration Statement (or replacements thereof) effective and to comply with the provisions of the Securities Act with respect to the disposition of all the Registrable Securities during the Effectiveness Period. If any Resale Registration Statement filed pursuant to **Section 6(a)(i)** is filed on Form S-3 and thereafter the Issuer becomes ineligible to use such registration statement for secondary sales, the Issuer shall promptly notify the Holder of such ineligibility and shall file a shelf registration on Form S-1 or other appropriate form as promptly as practicable (but no later than 14 calendar days after becoming ineligible to use Form S-3) to replace the Resale Registration Statement and use its best efforts to have the such replacement Resale Registration Statement declared effective as promptly as practicable and shall cause such replacement Resale Registration Statement to remain effective, and to be supplemented and amended to the extent necessary to ensure that such Resale Registration Statement is available or, if not available, that another Resale Registration Statement is available, for the resale of all the Registrable Securities held by the Holder until all such Registrable Securities have been sold; provided, however, that at any time the Issuer once again becomes eligible to use Form S-3, the Issuer shall cause such replacement Resale Registration Statement to be amended, or shall file a new replacement Resale Registration Statement, such that the Resale Registration Statement is once again on Form S-3.

(b) **Piggyback Registration Rights.** If, at a time when an applicable Registration Statement is not then effective or available to the Holder for the offer and sale of the Registrable Securities, the Issuer proposes to register or qualify (including for this purpose a registration or a prospectus in connection with a secondary sale effected by the Issuer for equityholders other than the Holder) any of its securities under the Securities Act in connection with the public offering of such securities solely for cash, the Issuer shall, at such time, promptly give the Holder notice of such registration, qualification or secondary sale. Upon the request of the Holder given within thirty (30) days after such notice is given by the Issuer, the Issuer shall cause to be registered all of the Warrant Securities that the Holder has requested to be included in such registration. The Issuer shall have the right to terminate or withdraw any registration initiated by the Issuer under this **Section 6(b)** before the effective date of such registration, whether or not the Holder has elected to include Warrant Securities in such registration. All expenses of such withdrawn registration shall be borne by the Issuer. The provisions of this paragraph shall not apply in connection with a Registration Statement on Form S-4, Form F-4 or Form S-8 or any similar or successor form and shall not apply to any Registration Statement, prospectus or prospectus supplement filed in connection with that certain Sales Agreement, dated November 17, 2023, by and between the Issuer and TD Securities USA LLC.

(c) **Indemnification.**

(i) To the extent permitted by law, the Issuer will indemnify and hold harmless the Holder, and the partners, members, officers, directors, and stockholders of the Holder, legal counsel and accountants for the Holder, any underwriter (as defined in the Securities Act) for the Holder, and each Person, if any, who controls the Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any loss, damage, claim or liability arising out of or is based upon: (A) any untrue statement or alleged untrue statement of any material fact contained in

a Registration Statement, or prospectus, amendment or supplement thereof or any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein (in the case of any prospectus or form of prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading; (B) any “Blue Sky” application or other document executed by the Issuer specifically for that purpose or based upon written information furnished by the Issuer filed in any state or other jurisdiction in order to qualify any or all of the Registrable Securities under the securities laws thereof (any such application, document or information herein called a “*Blue Sky Application*”); (C) the omission or alleged omission to state in a Blue Sky Application a material fact required to be stated therein or necessary to make the statements therein not misleading, in light of the circumstances in which they were made; (D) any violation by the Issuer or its agents of any rule or regulation promulgated under the Securities Act applicable to the Issuer or its agents and relating to action or inaction required of the Issuer in connection with such Registration Statement, the Issuer will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which any loss, damage, claim or liability may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this **Section 6(c)(i)** shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Issuer, which consent shall not be unreasonably withheld, nor shall the Issuer be liable for any loss, damage, claim or liability to the extent arising out of or based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of the Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(ii) To the extent permitted by law, the Holder will indemnify and hold harmless the Issuer, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the Issuer within the meaning of the Securities Act, legal counsel and accountants for the Issuer, any underwriter (as defined in the Securities Act), any other Person selling securities in such registration statement, and any controlling Person of any such underwriter or other Person, against any loss, damage, claim or liability, in each case only to the extent that such loss, damage, claim or liability arises out of or is based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of the Holder expressly for use in connection with such registration; and the Holder will pay to the Issuer and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which loss, damage, claim or liability may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this **Section 6(c)(ii)** shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall the aggregate amounts payable by the Holder by way of indemnity or contribution under this **Section 6(c)** exceed the proceeds from the offering received by the Holder (net of expenses), except in the case of fraud or willful misconduct by the Holder.

(d) **Rule 144 Reporting.** With a view to making available to the Holder the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit the Holder to sell securities of the Issuer to the public without registration or pursuant to a registration on a

Resale Registration Statement, the Issuer shall make and keep available adequate current public information, as those terms are understood and defined in Rule 144.

Section 7. Warrant Register. The Issuer shall keep and properly maintain (or cause to be kept and maintained, including through a Transfer Agent) a register (the “*Warrant Register*”) for the registration of this Warrant Certificate and any transfers thereof. The Issuer may deem and treat the Person in whose name this Warrant Certificate is registered on such register as the holder thereof for all purposes, and the Issuer shall not be affected by any notice to the contrary, except any assignment, division, combination or other transfer of this Warrant Certificate effected in accordance with the provisions of this Warrant Certificate.

Section 8. Transfer of Warrant Certificate and Warrant Securities.

(a) Subject to the final sentence of this **Section 8(a)** and to the extent the Unrestricted Conditions are satisfied, this Warrant Certificate and all rights hereunder are transferable, in whole or in part, by the Holder without the prior consent of any other Person. Any transfer of this Warrant Certificate and the rights hereunder shall be made without charge to the Holder, upon surrender of this Warrant Certificate to the Issuer at its then registered office with a properly completed and duly executed Assignment in the form attached hereto as **Exhibit B**. Upon such compliance, surrender and delivery, the Issuer shall execute and deliver a new Warrant Certificate or Warrant Certificates in the name of the assignee or assignees and in the denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant Certificate evidencing the portion of this Warrant Certificate, if any, not so assigned and this Warrant Certificate shall promptly be cancelled.

(b) In connection with any transfer of this Warrant Certificate, and in addition to any other applicable requirements of this **Section 8**, Holder will give the Issuer notice of the portion of this Warrant Certificate being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant Certificate to the Issuer for reissuance to the transferee(s) (and Holder if applicable); and provided further, that any subsequent transferee shall agree in writing with the Issuer to be bound by all of the terms and conditions of this Warrant Certificate.

Section 9. The Holder Not Deemed an Equity Holder; Limitations on Liability. Except as otherwise specifically provided herein, prior to the issuance to the Holder of the Warrant Securities to which the Holder is then entitled to receive upon the due exercise of this Warrant Certificate, the Holder shall not be entitled to vote or receive dividends or be deemed the holder of Common Shares of the Issuer or otherwise have any rights as a holder of Common Shares for any purpose, nor shall anything contained in this Warrant Certificate be construed to confer upon the Holder, as such, any of the rights of an equity holder of the Issuer or any right to vote, give or withhold consent to any action (whether any reorganization, issuance of securities, reclassification of securities, consolidation, amalgamation, merger, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise. In addition, nothing contained in this Warrant Certificate shall be construed as imposing any liabilities on the Holder to purchase any securities or interests (upon exercise of this Warrant Certificate or otherwise) or as an equity holder of the Issuer, whether such liabilities are asserted by the Issuer or by creditors of the Issuer.

This **Section 9** shall survive the exercise of this Warrant Certificate for so long as the Holder holds any Warrant Securities.

Section 10. Replacement on Loss; Division and Combination.

(a) **Replacement of Warrant Certificate on Loss.** Upon receipt of evidence reasonably satisfactory to the Issuer of the loss, theft, destruction or mutilation of this Warrant Certificate and upon delivery of an indemnity reasonably satisfactory to the Issuer (it being understood that a written indemnification agreement or affidavit of loss of the Holder shall be a sufficient indemnity) and, in case of mutilation, upon surrender of such Warrant Certificate for cancellation to the Issuer, the Issuer (at the Holder's expense) shall execute and deliver to the Holder, in lieu hereof, a new Warrant Certificate of like tenor and exercisable for an equivalent number of Warrant Securities as this Warrant Certificate so lost, stolen, mutilated or destroyed; provided that, in the case of mutilation, no indemnity shall be required if this Warrant Certificate in identifiable form is surrendered to the Issuer for cancellation.

(b) **Division and Combination of Warrant Certificate.** Subject to compliance with the applicable provisions of this Warrant Certificate as to any transfer or other assignment which may be involved in such division or combination, this Warrant Certificate may be divided or, following any such division of this Warrant Certificate, subsequently combined with other Warrant Certificates, upon the surrender of this Warrant Certificate or Warrant Certificates to the Issuer at its then registered office, together with a written notice specifying the names and denominations in which new Warrant Certificates are to be issued, signed by the respective Holders or their agents or attorneys. Subject to compliance with the applicable provisions of this Warrant Certificate as to any transfer or assignment which may be involved in such division or combination, the Issuer shall at its expense execute and deliver a new Warrant Certificate or Warrant Certificates in exchange for this Warrant Certificate or Warrant Certificates so surrendered in accordance with such notice. Such new Warrant Certificate or Warrant Certificates shall be of like tenor to the surrendered Warrant Certificate or Warrant Certificates and shall be exercisable in the aggregate for an equivalent number of Warrant Securities as this Warrant Certificate or Warrant Certificates so surrendered in accordance with such notice.

Section 11. No Impairment. The Issuer shall not, by amendment of any of its organizational documents, through any securityholder, voting or similar agreement, or through any reorganization, restructuring, transfer of assets, consolidation, amalgamation, merger, dissolution, issue or sale of securities or interests, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed by it hereunder, but shall at all times in good faith assist in the carrying out of all the provisions of this Warrant Certificate and in the taking of all such action as may reasonably be requested by the Holder in order to protect the exercise rights of the Holder against dilution or other impairment, consistent with the tenor and purpose of this Warrant Certificate.

Section 12. Compliance with the Securities Act.

(a) **Agreement to Comply with the Securities Act, etc.**

(i) **Legend.** The Holder, by acceptance of this Warrant Certificate, agrees to comply in all respects with the provisions of this **Section 12** and the restrictive legend requirements set forth on the face of this Warrant Certificate and further agrees that such Holder shall not offer, sell or otherwise dispose of this Warrant Certificate or any Warrant Securities to be issued upon exercise hereof except under circumstances that will not result in a violation of the Securities Act. Subject to **clause (ii)** below, this Warrant Certificate and all Warrant Securities issued upon exercise of this Warrant Certificate (unless registered under the Securities Act) may be stamped or imprinted with a legend in substantially the following form:

“THIS WARRANT CERTIFICATE AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**ACT**”), OR QUALIFIED UNDER ANY STATE OR FOREIGN SECURITIES LAWS AND MAY NOT BE OFFERED FOR SALE, SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED OR ASSIGNED UNLESS (I) A REGISTRATION STATEMENT COVERING SUCH SECURITIES IS EFFECTIVE UNDER THE ACT AND IS QUALIFIED UNDER APPLICABLE STATE AND FOREIGN LAW OR (II) THE TRANSACTION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS UNDER THE ACT AND THE QUALIFICATION REQUIREMENTS UNDER APPLICABLE STATE AND FOREIGN LAW AND, IF THE ISSUER REQUESTS, AN OPINION SATISFACTORY TO THE ISSUER TO SUCH EFFECT HAS BEEN RENDERED BY COUNSEL.”

(ii) **Removal of Restrictive Legends.** Neither this Warrant Certificate nor any book-entry position or certificate, as applicable, evidencing Warrant Securities or any other equity securities issuable or deliverable under or in connection with this Warrant Certificate shall contain any legend restricting the transfer thereof (including the legend set forth above in **clause (i)**) in any of the following circumstances: (A) while a registration statement covering the sale or resale of Warrant Securities is effective under the Securities Act, (B) following any sale of this Warrant Certificate, any Warrant Securities issued or delivered to the Holder under or in connection here with pursuant to Rule 144, (C) if this Warrant Certificate or Warrant Securities are eligible for sale under Rule 144(b)(1), or (D) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the SEC) (collectively, the “**Unrestricted Conditions**”). The Issuer shall cause its counsel to issue a legal opinion to the Transfer Agent if required by such Transfer Agent to effect the issuance of Warrant Securities or any other equity securities issuable or deliverable under or in connection with this Warrant Certificate, as applicable, without a restrictive legend or removal of the legend hereunder. If the Unrestricted Conditions are met at the time of issuance of this Warrant Certificate, the Warrant Securities or such other equity securities, then this Warrant Certificate, Warrant Securities or other equity securities, as the case may be, shall be issued free of all legends.

(iii) **Replacement Warrant Certificate.** The Issuer agrees that at such time as the Unrestricted Conditions have been satisfied it shall promptly (but in any event within five (5)

Business Days) following written request from the Holder issue a replacement Warrant Certificate or replacement Warrant Securities, as the case may be, free of all restrictive legends.

(iv) **Sale of Unlegended Securities.** The Holder agrees that the removal of the restrictive legend from this Warrant Certificate and any book-entry position or certificates, as applicable, representing securities as set forth in **Section 12(a)(ii)** above is predicated upon the Issuer's reliance that the Holder will sell this Warrant Certificate or any such securities pursuant to either an effective registration statement or otherwise pursuant to the requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if such securities are sold pursuant to a registration statement, they will be sold in compliance with the plan of distribution set forth therein.

(b) **Representations of the Holder.** In connection with the issuance of this Warrant Certificate, the Holder specifically represents, as of the date hereof and as of each Issue Date, to the Issuer as follows:

(i) The Holder is an "accredited investor" as defined in Rule 501 of Regulation D promulgated under the Securities Act. The Holder is acquiring this Warrant Certificate and the Warrant Securities to be issued upon exercise hereof for investment for its own account and not with a view towards, or for resale in connection with, the public sale or distribution of this Warrant Certificate or the Warrant Securities, except pursuant to sales registered or exempted under the Securities Act and otherwise permitted pursuant to this Warrant Certificate.

(ii) The Holder understands and acknowledges that this Warrant Certificate and the Warrant Securities to be issued upon exercise hereof are "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Issuer in a transaction not involving a public offering and that, under such laws and applicable regulations, such securities may be resold without registration under the Securities Act only in certain limited circumstances. In addition, the Holder represents that it is familiar with Rule 144, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

(iii) The Holder acknowledges that it can bear the economic and financial risk of its investment for an indefinite period, and has such knowledge and experience in financial or business matters that it is capable of evaluating the merits and risks of the investment in this Warrant Certificate and the Warrant Securities. The Holder has had an opportunity to ask questions and receive answers from the Issuer regarding the terms and conditions of the offering of this Warrant Certificate and the business, properties, prospects and financial condition of the Issuer.

Section 13. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent on a Business Day during or before normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or on a day that is not a Business Day; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such

communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this **Section 13**).

If to the Issuer: Exagen Inc.
1261 Liberty Way
Vista, California 92081
Attention: Exagen Legal Department
Email:

With a copy to: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
Attention:
Email:

If to the Holder: Perceptive Credit Holdings IV, LP
c/o Perceptive Advisors LLC
51 Astor Place, 10th Floor
New York, NY 10003
Attention:
E-mail:

with a copy to: Chapman and Cutler LLP
1270 Avenue of the Americas
New York, NY 10020
Attention:

Section 14. Cumulative Remedies. The rights and remedies provided in this Warrant Certificate are cumulative and are not exclusive of, and are in addition to and not in substitution for, any other rights or remedies available at law, in equity or otherwise.

Section 15. Equitable Relief. Each of the Issuer and the Holder acknowledges that a breach or threatened breach by such party of any of its obligations under this Warrant Certificate may give rise to irreparable harm to the other party hereto for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, the other party hereto shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to seek equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction.

Section 16. Entire Agreement. This Warrant Certificate constitutes the sole and entire agreement of the parties to this Warrant Certificate with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

Section 17. Successor and Assigns. This Warrant Certificate and the rights evidenced hereby shall be binding upon and shall inure to the benefit of the parties hereto and the successors of the Issuer and the successors and permitted assigns of the Holder. Such successors and/or permitted assigns of the Holder shall be deemed to be a “Holder” for all purposes hereunder.

Section 18. No Third-Party Beneficiaries. This Warrant Certificate is for the sole benefit of the Issuer and the Holder and their respective successors and, in the case of the Holder, permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Warrant Certificate.

Section 19. Headings. The headings in this Warrant Certificate are for reference only and shall not affect the interpretation of this Warrant Certificate.

Section 20. Amendment and Modification; Waiver. Except as otherwise provided herein, this Warrant Certificate may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by the Issuer or the Holder of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Warrant Certificate shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 21. Severability. If any term or provision of this Warrant Certificate is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Warrant Certificate or invalidate or render unenforceable such term or provision in any other jurisdiction.

Section 22. Governing Law. This Warrant Certificate shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of New York.

Section 23. Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Warrant Certificate or the transactions contemplated hereby may be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the city of New York and County of New York, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by certified or registered mail to such party’s address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or any proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

Section 24. Waiver of Jury Trial. EACH OF THE ISSUER AND THE HOLDER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS WARRANT CERTIFICATE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS WARRANT CERTIFICATE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 25. Counterparts. This Warrant Certificate may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Warrant Certificate delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Warrant Certificate.

Section 26. No Strict Construction. This Warrant Certificate shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Issuer has duly executed this Warrant Certificate on the Initial Issue Date.

EXAGEN INC., a Delaware corporation

By: /s/ Jeffrey Black

Name: Jeffrey Black

Title: Chief Financial Officer

Accepted and agreed,

PERCEPTIVE CREDIT HOLDINGS IV, LP

By: Perceptive Credit Opportunities GP, LLC, its general partner

By: /s/ Sandeep Dixit
Name: Sandeep Dixit
Title: Chief Credit Officer

By: /s/ Sam Chawla
Name: Sam Chawla
Title: Portfolio Manager

FORM OF EXERCISE CERTIFICATE

(To be signed only upon exercise of Warrant Certificate)

To: _____

The undersigned, as holder of a right to purchase Common Shares, par value \$0.001 per share, of **EXAGEN INC.**, a Delaware corporation (the "**Issuer**"), pursuant to that certain Warrant Certificate of the Issuer, dated as of April 25, 2025 and bearing Warrant Certificate No. 1 (the "**Warrant Certificate**"), hereby irrevocably elects to exercise the purchase right represented by such Warrant Certificate for, and to purchase thereunder, [_____] (_____) Common Shares of the Issuer comprising and herewith makes payment of [_____] Dollars (\$_____) therefor by the following method:

(Check all that apply):

_____ (check if applicable) The undersigned hereby elects to make payment of the Aggregate Exercise Price of [_____] Dollars (\$_____) for [(_____) Common Shares using the method described in **Section 3(b)(i)**.

_____ (check if applicable) The undersigned hereby elects to make payment of the Aggregate Exercise Price of [_____] Dollars (\$_____) for [(_____) Common Shares using the method described in **Section 3(b)(ii)**.

As applicable, information for DWAC delivery:

Broker Name:

DTC Participant Number:

Account Number:

Reference:

Unless otherwise defined herein, capitalized terms have the meanings provided in the Warrant Certificate.

DATED: _____

PERCEPTIVE CREDIT HOLDINGS IV, LP

By: _____
Name:
Title:

FORM OF ASSIGNMENT

THE UNDERSIGNED, Perceptive Credit Holdings IV, LP, is the holder (in such capacity, the “**Holder**”) of a warrant certificate issued by **EXAGEN INC.**, a Delaware corporation (the “**Issuer**”), bearing Warrant Certificate No. 1 (the “**Warrant Certificate**”), entitling the Holder to purchase Common Shares. Unless otherwise defined, capitalized terms used herein have the meanings ascribed thereto in the Warrant Certificate.

FOR VALUE RECEIVED, the Holder hereby sells, assigns and transfers to [NAME OF ASSIGNEE] (the “**Assignee**”) the right to acquire [all Warrant Securities entitled to be purchased upon exercise of the Warrant Certificate] [[_____] Warrant Securities entitled to be purchased upon exercise of the Warrant Certificate]. In furtherance of the foregoing assignment, the Holder hereby irrevocably instructs the Issuer to (i) memorialize such assignment on the Warrant Register as required pursuant to **Section 7** of the Warrant Certificate, and (ii) pursuant to **Section 8** of the Warrant Certificate, execute and deliver to the Assignee [and the Holder] [a new Warrant Certificate / new Warrant Certificates] reflecting the foregoing assignment ([each] a “**Substitute Warrant Certificate**”).

The Assignee acknowledges and agrees that its Substitute Warrant Certificate and the Warrant Securities to be issued upon exercise thereof are being acquired for investment and that the Assignee will not offer, sell or otherwise dispose of its Substitute Warrant Certificate or any Warrant Securities to be issued upon exercise or conversion thereof except under circumstances which will not result in a violation of the Securities Act of 1933, as amended (the “**Securities Act**”), or any applicable state securities laws or foreign securities laws. The Assignee represents and warrants for the benefit of the Issuer that the Assignee is an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act.

To the extent required pursuant to **Section 12** of the Warrant Certificate, the Assignee acknowledges and agrees that a restrictive legend shall be applied to the Assignee’s Substitute Warrant Certificate and the Warrant Securities issuable upon exercise of such certificate substantially consistent with the legend set forth in **Section 12(a)(i)**.

[SIGNATURE PAGE FOLLOWS]

By: _____
Name:
Title:

Accepted and agreed,

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

***]: THE IDENTIFIED INFORMATION HAS BEEN OMITTED FROM THE AGREEMENT BECAUSE IT IS BOTH (i) NOT MATERIAL AND (ii) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

CREDIT AGREEMENT AND GUARANTY

dated as of

APRIL 25, 2025

among

EXAGEN INC.,
as the Borrower,

THE GUARANTORS FROM TIME TO TIME PARTY HERETO,
as Guarantors,

THE LENDERS FROM TIME TO TIME PARTY HERETO,
as Lenders,

AND

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as the Administrative Agent and as a Lender

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EXHIBIT H-1	—	Form of Patent & Trademark Security Agreement
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EXHIBIT I	—	Form of Collateral Questionnaire
EXHIBIT J	—	Form of Tranche D Term Loan Borrowing Request

CREDIT AGREEMENT AND GUARANTY, dated as of April 25, 2025 (as the same may be amended, restated, amended and restated, modified, or supplemented from time to time, this “*Agreement*”), among EXAGEN INC., a Delaware corporation (the “*Borrower*”), certain Guarantors from time to time parties hereto, the lenders from time to time party hereto (each, as a “*Lender*” and collectively, the “*Lenders*”) and PERCEPTIVE CREDIT HOLDINGS IV, LP, a Delaware limited partnership (“*Perceptive*”), as administrative agent for the Lenders (in such capacity, together with its successors and assigns, the “*Administrative Agent*”).

WITNESSETH:

The Borrower has requested that the Lenders make certain term loans to the Borrower, and the Lenders are prepared to make such loans on and subject to the terms and conditions hereof. Accordingly, the parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Certain Defined Terms. As used herein, the following terms have the following respective meanings:

“*Accounting Change*” has the meaning set forth in Section 1.02.

“*Accounting Change Notice*” has the meaning set forth in Section 1.02.

“*Acquisition*” means any transaction, or any series of related transactions, by which any Person directly or indirectly, by means of a take-over bid, tender offer, amalgamation, merger, purchase of assets, or similar transaction having the same effect as any of the foregoing, (a) acquires all or substantially all of the assets of any Person engaged in any business, (b) acquires all or substantially all of a business line or unit or division of any other Person, (c) acquires Control of securities of a Person engaged in a business representing more than 50% of the ordinary voting power for the election of directors or other governing body if the business affairs of such Person are managed by a Board or other governing body, or (d) acquires Control of more than 50% of the ownership interest in any Person engaged in any business that is not managed by a Board or other governing body.

“*Act*” has the meaning set forth in Section 13.16.

“*Administrative Agent*” has the meaning set forth in the introduction hereto.

“*Affected Financial Institution*” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“*Affiliate*” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“*Agreement*” has the meaning set forth in the introduction hereto.

“*Anti-Corruption Laws*” means all laws, rules and regulations of any jurisdiction applicable to the Obligors and their Affiliates concerning or relating to bribery or corruption, including, without limitation, the Foreign Corrupt Practices Act of 1977, as amended.

“*Anti-Terrorism Laws*” means any laws or regulations relating to terrorism or money laundering, including, without limitation the *Bank Secrecy Act* (31 U.S.C. §§ 5311 *et seq.*), the *Money Laundering Control Act of 1986* (18 U.S.C. §§ 1956 *et seq.*), the USA Patriot Act and any similar law enacted in the United States after the date of this Agreement.

“*Applicable Margin*” means 7.00% per annum.

“*Approved Fund*” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“*Asset Sale*” has the meaning set forth in Section 9.09.

“*Assignment Agreement*” means an assignment and assumption entered into by a Lender and an assignee of such Lender in substantially the form of Exhibit F.

“*Available Tenor*” means, as of the Closing Date, the only Available Tenor for Term SOFR is an interest period of one (1) month; *provided* that the Administrative Agent may select to use additional interest periods in consultation with the Borrower and in accordance with the terms of Section 3.02(c) (iv) and such interest periods shall become Available Tenors upon such selection.

“*Bail-In Action*” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“*Bail-In Legislation*” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation, rule or requirement applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other Insolvency Proceedings).

“*Bankruptcy Code*” means Title 11 of the United States Code entitled “Bankruptcy.”

“*Benchmark*” means, initially, the Term SOFR Reference Rate; *provided* that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then “*Benchmark*” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 3.02(c).

“*Benchmark Replacement*” means the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(a) Daily Simple SOFR; or

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities and (ii) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“*Benchmark Replacement Adjustment*” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

“*Benchmark Replacement Date*” means a date and time determined by the Administrative Agent, which date shall be no later than the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of “*Benchmark Transition Event*,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event”, the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; *provided* that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“*Benchmark Transition Event*” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);
or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above

has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“*Beneficial Ownership Regulation*” has the meaning set forth in Section 13.16.

“*Benefit Plan*” means any “employee benefit plan” as defined in Section 3(3) of ERISA (other than a Multiemployer Plan) to which any Obligor or Subsidiary thereof incurs or otherwise has any obligation or liability, contingent or otherwise.

“*Board*” means, with respect to any Person, the board of managers or directors (as applicable) (or equivalent governing body) of such Person or any committee thereof.

“*Borrower*” has the meaning set forth in the introduction hereto.

“*Borrowing*” means a borrowing consisting of the Tranche A Term Loan made by the Lenders on the Closing Date, the Tranche B Term Loan made by the Lenders on the Tranche B Term Loan Borrowing Date, the Tranche C Term Loan made by the Lenders on the Tranche C Term Loan Borrowing Date and the Tranche D Term Loan made by the Lenders on the Tranche D Term Loan Borrowing Date, as applicable.

“*Borrowing Notice*” means a notice substantially in the form attached hereto as Exhibit B.

“*Business Day*” means a day (other than a Saturday or Sunday) on which commercial banks are not authorized or required to close in New York City.

“*Capital Lease Obligations*” means, as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal Property which obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined substantially in accordance with GAAP.

“*Casualty Event*” means any actual or constructive loss, condemnation, destruction, confiscation, requisition, seizure or forfeiture of all or any material portion of the assets of the Borrower or any other Obligor, excluding only those assets, individually or in the aggregate, subject to any such event during any calendar year with a fair market value as of the date thereof equal to or less than \$500,000.

“*Change of Control*” means and shall be deemed to have occurred if:

(a) any “person” or “group” (within the meaning of Rule 13d-5 of the Exchange Act as in effect on the date hereof) shall own, directly or indirectly, beneficially or of record, shares representing 35% or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower;

(b) during any period of twelve (12) consecutive calendar months, the occupation of a majority of the seats (other than vacant seats) on the Board of the Borrower by Persons who were neither (i) nominated or approved by the Board of the Borrower, nor (ii) appointed by directors on the Board on the date hereof or so nominated; and

(c) each Obligor shall cease to own directly, beneficially and of record, determined on a fully diluted basis, 100% of the issued and outstanding Equity Interests of its Subsidiaries.

“*Claims*” includes claims, litigation, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions, information (brought by a public prosecutor without grand jury indictment) or other similar processes, assessments or reassessments.

“*CLIA*” means the Clinical Laboratory Improvement Amendments (CLIA) of 1988, as amended from time to time, and the rules, regulations, guidelines, guidance documents and compliance policy guides issued or promulgated thereunder.

“*Closing Date*” means the Business Day on which all of the conditions set forth in Section 6.01 have been satisfied or waived by the Lenders and the Tranche A Term Loan is made.

“*Closing Fee*” has the meaning set forth in the Letter Agreement.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time.

“*Collateral*” means any Property in which a Lien is purported to be granted under any of the Security Documents (or all such Property, as the context may require).

“*Collateral Questionnaire*” means that certain Collateral Questionnaire and certification by a Responsible Officer of the Borrower substantially in the form of attached hereto as Exhibit I and otherwise in form and substance reasonably satisfactory to the Administrative Agent.

“*Commitment*” means, with respect to each Lender, such Lender’s (a) Tranche A Term Loan Commitment, (b) Tranche B Term Loan Commitment and (c) Tranche C Term Loan Commitment and “*Commitments*” means all such commitments of all Lenders. The amount of each Lender’s Commitments is set forth on Schedule 1. The aggregate Commitments of all Lenders as of the Closing Date is \$45,000,000.

“*Commodity Account*” has the meaning set forth in the Security Agreement.

“*Compliance Certificate*” has the meaning set forth in Section 8.01(c).

“*Conforming Changes*” means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “*Business Day*,” the definition of “*U.S. Government Securities Business Day*,” the definition of “*Interest*”

Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“*Connection Income Taxes*” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“*Contracts*” means any contract, license, instrument, lease, agreement, obligation, promise, undertaking, understanding, arrangement, document, commitment, entitlement or engagement under which a Person has, or will have, any liability or contingent liability (in each case, whether written or oral, express or implied, and whether in respect of monetary or payment obligations, performance obligations or otherwise), excluding the Loan Documents.

“*Control*” means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise. “*Controlling*” and “*Controlled*” have meanings correlative thereto.

“*Controlled Account*” has the meaning set forth in Section 8.17(a).

“*Copyrights*” has the meaning set forth in the Security Agreement.

“*Daily Simple SOFR*” means, for any day (a “SOFR Rate Day”), a rate per annum equal to the greater of (a) SOFR for the day (such day, a “SOFR Determination Day”) that is two (2) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website, and (b) the Floor. If by 5:00 p.m. (New York City time) on the second (2nd) U.S. Government Securities Business Day immediately following any SOFR Determination Day, SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator’s Website and a Benchmark Replacement Date with respect to the Daily Simple SOFR has not occurred, then SOFR for such SOFR Determination Day will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator’s Website; *provided* that, any SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days;

provided further, Daily Simple SOFR shall be rounded upwards to the next 1/100% (if necessary). Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

“*Default*” means any Event of Default and any event that, upon the giving of notice, the lapse of time or both, would constitute an Event of Default.

“*Default Rate*” has the meaning set forth in Section 3.02(d).

“*Deposit Account*” has the meaning set forth in the Security Agreement.

“*Designated Person*” means a person or entity:

(a) listed in the annex to, or otherwise targeted by the provisions of, the Executive Order (as disclosed by World-Check or another reputable commercially available database);

(b) named as a “Specially Designated National and Blocked Person” on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list (as disclosed by World-Check or another reputable commercially available database); or

(c) with which the Lenders are prohibited from dealing or otherwise engaging in any transaction by any Economic Sanctions Laws.

“*Device*” means any (a) instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related item, including any component, part or accessory, that (i) is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, in man, or is intended to affect the structure or any function of the body of man, (ii) does not achieve its primary intended purpose or purposes through chemical action within or on the body of man and (iii) is not dependent upon being metabolized for the achievement of its primary intended purpose or purposes, (b) any other item that meets the definition of “device” as set forth in Section 201 of the FD&C Act (21 U.S.C. § 321) and its implementing regulations, or (c) any other item that is a regulated medical device by any applicable non-U.S. Regulatory Authority. For purposes of this Agreement, the term “Device” does not include LDTs.

“*Disqualified Equity Interests*” means, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable upon exercise or otherwise), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), including pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends or other distributions in cash or other securities that would constitute Disqualified Equity Interests, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified

Equity Interests, in each case, prior to the date that is one hundred and eighty (180) days after the Stated Maturity Date; *provided* that, if such Equity Interests are issued pursuant to any plan for the benefit of directors, officers, employees or consultants of such Person or by any such plan to such directors, officers, employees or consultants, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by such Person upon the death, disability, retirement or termination of employment or service of such director, officer, employee or consultant.

“Dollars” and “\$” means lawful money of the United States of America.

“*Economic Sanctions Laws*” means: (a) the Executive Order, the *International Emergency Economic Powers Act* (50 U.S.C. §§ 1701 *et seq.*), the *Trading with the Enemy Act* (50 U.S.C. App. §§ 1 *et seq.*), any other law or regulation promulgated thereunder from time to time and administered by OFAC and any similar law enacted in the United States after the date of this Agreement; and (b) any other similar applicable law now or hereafter enacted in any other applicable jurisdiction.

“*EEA Financial Institution*” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“*EEA Member Country*” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“*EEA Resolution Authority*” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“*Environmental Law*” means any federal, state, provincial or local governmental law, rule, regulation, order, writ, judgment, injunction or decree relating to pollution or protection of the environment or the treatment, storage, disposal, release, threatened release or handling of Hazardous Materials, and all local laws and regulations related to environmental matters and any specific agreements entered into with any Governmental Authorities which include commitments related to environmental matters.

“*Equity Interest*” means, with respect to any Person, any and all shares, interests, participations or other equivalents, including membership interests (however designated, whether voting or nonvoting), of equity of such Person, including, if such Person is a partnership, partnership interests (whether general or limited) and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of property of, such partnership, but excluding debt securities convertible or exchangeable into such equity.

“ERISA” means the United States Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any Person that, as of the relevant time, would be considered a single employer with an Obligor pursuant to Section 414(b), (c), (m) or (o) of the Code.

“ERISA Event” means (a) a “reportable event” as defined in Section 4043 of ERISA with respect to a Title IV Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event; (b) a withdrawal by any Obligor or any ERISA Affiliate thereof from a Title IV Plan or the termination of any Title IV Plan resulting in liability under Sections 4063 or 4064 of ERISA; (c) the withdrawal of any Obligor or any ERISA Affiliate thereof in a complete or partial withdrawal (within the meaning of Section 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any liability therefore, or the receipt by any Obligor or any ERISA Affiliate thereof of notice from any Multiemployer Plan that it is insolvent pursuant to Section 4245 of ERISA; (d) with respect to a Title IV Plan or Multiemployer Plan, as applicable, the filing of a notice of intent to terminate, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate such plan; (e) the failure by any Obligor or an ERISA Affiliate thereof to make any required contribution to a Multiemployer Plan, or to meet the minimum funding standard of Section 412 of the Code with respect to any Title IV Plan or the failure to make by its due date a required installment under Section 430 of the Code with respect to any Title IV Plan, unless such failures are cured within thirty (30) days; (f) the determination that any Title IV Plan is in “at-risk” status within the meaning of Sections 430 of the Code or Section 303 of ERISA; (g) the determination that any Multiemployer Plan is in “critical” or “endangered” status within the meaning of Section 432 of the Code or Section 305 of ERISA; (h) the imposition on any Obligor of fines, penalties, Taxes or related charges under Section 4975 of the Code, Chapter 43 of the Code or under Sections 409, 502(c), (i) or (1) or 4071 of ERISA; (i) the imposition of any Lien on any of the rights, properties or assets of any Obligor pursuant to Title I or IV of ERISA or to Section 430(k) of the Code with respect to a Title IV Plan.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

“Event of Default” has the meaning set forth in Section 10.01.

“Excess Funding Guarantor” has the meaning set forth in Section 11.08.

“Excess Payment” has the meaning set forth in Section 11.08.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Excluded Accounts” means (a) Deposit Accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of the employees of the Borrower and its Subsidiaries, (b) Deposit Accounts that are Segregated Health Care Accounts

and (c) controlled disbursement accounts (to the extent that such accounts are zero balance accounts and so long as (i) such accounts are linked to a deposit account of a Obligor that is subject to a Control Agreement and (ii) no cash or cash equivalent is maintained on deposit in such accounts other than amounts that are drawn from such linked deposit account and promptly disbursed from such zero-balance account).

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes in each case (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of a Lender, its applicable lending office located in, the jurisdiction imposing such Tax or (ii) that are Other Connection Taxes, (b) any U.S. federal withholding Taxes that are imposed on amounts payable to a Lender to the extent that the obligation to withhold amounts existed on the date that (i) a Lender became a “Lender” under this Agreement or (ii) a Lender changes its lending office, except in each case to the extent such Lender is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment of such other Lender became effective, to receive additional amounts under Section 5.03 or such Lender was entitled to receive additional amounts under Section 5.03 immediately before it changed its lending office, (c) any Taxes imposed in connection with FATCA, and (d) Taxes attributable to such Recipient’s failure to comply with Section 5.03(e).

“Executive Order” means the US Executive Order No. 13224 on Blocking Property and Prohibiting Transactions with Persons who commit, Threaten to Commit, or Support Terrorism.

“Existing Credit Documents” means the Existing Credit Facility and any other document, instrument, agreement or certificate delivered in connection with the Existing Credit Facility.

“Existing Credit Facility” means that certain Loan and Security Agreement, dated as of September 7, 2017 (as amended by that certain First Amendment to Loan and Security Agreement, entered into on November 19, 2019, that certain Second Amendment to Loan and Security Agreement, entered into on November 1, 2021, that certain Third Amendment to Loan and Security Agreement, entered into on April 28, 2023, and that certain Fourth Amendment to Loan and Security Agreement, entered into on April 12, 2024) by and among the Borrower and Innovatus Life Sciences Lending Fund I, LP.

“Expense Deposit” means a cash deposit in the amount of \$50,000 made by the Borrower to an Affiliate of Perceptive Advisors LLC pursuant to the Proposal Letter for the prepayment of the Lenders’ costs and expenses (payable pursuant to Section 13.03(a) and/or the Proposal Letter) incurred prior to the Closing Date.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or

convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

“*FD&C Act*” means the U.S. Food, Drug and Cosmetic Act of 1938 (or any successor thereto), as amended from time to time, and the rules, regulations, guidelines, guidance documents and compliance policy guides issued or promulgated thereunder.

“*FDA*” means the U.S. Food and Drug Administration and any successor entity.

“*Federal Health Care Program*” has the meaning specified in Section 1128B(f) of the Social Security Act and includes the programs commonly known as Medicare, Medicaid, TRICARE and CHAMPVA.

“*Financial Plan*” has the meaning set forth in Section 8.01(h).

“*Floor*” means a rate of interest equal to 4.75%.

“*Foreign Lender*” means a Lender that is not a U.S. Person.

“*GAAP*” means generally accepted accounting principles in the United States of America, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board and in such other statements by such other entity as may be in general use by significant segments of the accounting profession that are applicable to the circumstances as of the date of determination. Subject to Section 1.02, all references to “GAAP” shall be to GAAP applied consistently with the principles used in the preparation of the financial statements described in Section 7.04(a).

“*GDPR*” means the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016).

“*Governmental Approval*” means any consent, authorization, approval, order, license, franchise, permit, certification, accreditation, registration, clearance, exemption, filing or notice that is issued or granted by or from (or pursuant to any act of) any Governmental Authority, including any application or submission related to any of the foregoing.

“*Governmental Authority*” means any nation, government, branch of power (whether executive, legislative or judicial), state, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, monetary, regulatory or administrative functions of or pertaining to government, including without limitation regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, courts, bodies, boards, tribunals and dispute settlement panels, and other law-, rule- or regulation-making organizations or entities of any State, territory, county, city or other political subdivision of the United States or any foreign country.

“*Guarantee*” of or by any Person (the “*guarantor*”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; *provided*, that the term *Guarantee* shall not include (i) endorsements for collection or deposit and (ii) guarantees of operating leases, in each case in the Ordinary Course of Business.

“*Guarantee Assumption Agreement*” means a *Guarantee Assumption Agreement* substantially in the form of Exhibit A by an entity that, pursuant to Section 8.11(a), is required to become a “*Guarantor*”.

“*Guaranteed Obligations*” has the meaning set forth in Section 11.01.

“*Guarantor*” means each Subsidiary of the Borrower joined as a *Guarantor* from time to time pursuant to Section 8.11(a). For the avoidance of doubt, there are no *Guarantors* as of the Closing Date.

“*Hazardous Material*” means any substance, element, chemical, compound, product, solid, gas, liquid, waste, by-product, pollutant, contaminant or material which is hazardous or toxic, and includes, without limitation, (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any material classified or regulated as “hazardous” or “toxic” or words of like import pursuant to an Environmental Law.

“*Health Care Compliance Program*” has the meaning set forth in Section 7.07(b)(v).

“*Health Care Laws*” means, collectively, all Laws applicable to the business of the Borrower, any other Obligor and any of their Subsidiaries relating to (a) the manufacturing, sale, distribution, labeling, marketing, promotion, export, or the provision of and payment for, health care products, items and services, including all applicable Regulated Product Laws; (b) the privacy, security, storage, collection, or other processing of consumer information, including but not limited to GDPR, HIPAA, the California Consumer Privacy Act of 2018, and other applicable consumer privacy and security laws; (c) fraud and abuse, false claims, self-referral, kickbacks, fee-splitting, or patient brokering, including but not limited to (i) the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)) and any similar state laws, (ii) the Ethics in Patient Referrals Act (Stark Law) (42 U.S.C. § 1395nn) and any similar state laws, (iii) the civil False Claims Act (31 U.S.C. § 3729 et seq.) and any similar state laws, (iv) the federal health care program exclusion provisions (42 U.S.C. § 1320a-7), (v) the Civil Monetary Penalties Act (42 U.S.C. § 1320a-7a), (vi) *reserved*, (vii) the Eliminating Kickbacks in Recovery Act (18 U.S.C. § 220), and (viii) other applicable

requirements relating to prohibited remuneration, or the defrauding of, or making of any false claim, false statement, or misrepresentation of material facts to the Federal Health Care Programs or any Third-Party Payor Program); (d) the corporate practice of medicine; (e) the provision of health care supplies, items or services to Federal Health Care Program beneficiaries or the billing of the Federal Health Care Programs; (f) clinical or other human subjects research and patient consent, including but not limited to the Federal Policy for Protection of Human Subjects; (g) required material health care Permits, including CLIA and other applicable Laws relating to the licensure or registration of health care providers, suppliers, facilities, and manufacturers; (h) genetic testing services; and (i) all rules and regulations promulgated under or pursuant to any of the foregoing.

“Hedging Agreement” means any interest rate exchange agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d-1329d-8, as amended by the Health Information Technology for Economic and Clinical Health Act, enacted as Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as the same may be further amended, modified or supplemented from time to time, and its implementing regulations.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to Property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of Property or services (excluding current accounts payable incurred in the Ordinary Course of Business not overdue by more than one hundred twenty (120) days), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on Property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) obligations under any Hedging Agreement, currency swaps, forwards, futures or derivatives transactions, (k) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (l) all obligations of such Person under license or other agreements containing a guaranteed minimum payment or purchase by such Person (excluding supply agreements entered into in the Ordinary Course of Business), (m) any Disqualified Equity Interests of such Person, (n) any earnout obligation at the time such obligation is both required to be reflected as a liability on the balance sheet of such Person in accordance with GAAP and not paid after becoming due and payable and (o) all other obligations required to be classified as indebtedness of such Person under GAAP. The Indebtedness of any Person shall, without duplication, include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such

entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“*Indemnified Party*” has the meaning set forth in Section 13.03(b).

“*Indemnified Taxes*” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any Obligation and (b) to the extent not otherwise described in clause (a), Other Taxes.

“*Industrial Designs*” means all right, title and interests arising under any Laws in or relating to all industrial designs, intangibles of like nature, and any work subject to the design laws of the United States, Canada, Ireland or any other country or any political subdivision thereof.

“*Ineligible Assignee*” means (a) a natural person or (b) the Obligors or any of their respective Affiliates.

“*Information*” has the meaning set forth in Section 13.17.

“*Insolvency Proceeding*” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of any Person’s creditors generally or any substantial portion of such Person’s creditors, in each case undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

“*Intellectual Property*” means, with respect to any Person, all of such Person’s rights, title and interest in and to all Patents, Trademarks, Copyrights, Industrial Designs, Technical Information, whether registered or not and whether existing under U.S. or non-U.S. Law or jurisdiction, including, without limitation, all:

- (a) applications, registrations, amendments and extensions relating to such Intellectual Property;
- (b) rights and privileges arising under any applicable Laws with respect to any Intellectual Property;
- (c) rights to sue for or collect any damages for any past, present or future infringements of any Intellectual Property; and
- (d) rights of the same or similar effect or nature as described above in any jurisdiction corresponding to any Intellectual Property throughout the world.

“*Interest Period*” means, (a) as to the Tranche A Term Loan, (i) initially, the period beginning on (and including) the Closing Date and ending on (and including) the last day of the calendar month in which the Closing Date occurs, and (ii) thereafter, the period beginning on (and including) the first day of each succeeding calendar month and ending on the earlier of (and

including) (x) the last day of such calendar month and (y) the Maturity Date, (b) as to the Tranche B Term Loan, (i) the period commencing on (and including) the Tranche B Term Loan Borrowing Date and ending on (and including) the last day of the calendar month in which the Tranche B Term Loan Borrowing Date occurs, and (ii) thereafter, the period beginning on (and including) the first day of each succeeding calendar month and ending on the earlier of (and including) (x) the last day of such calendar month and (y) the Maturity Date, (c) as to the Tranche C Term Loan, (i) the period commencing on (and including) the Tranche C Term Loan Borrowing Date and ending on (and including) the last day of the calendar month in which the Tranche C Term Loan Borrowing Date occurs, and (ii) thereafter, the period beginning on (and including) the first day of each succeeding calendar month and ending on the earlier of (and including) (x) the last day of such calendar month and (y) the Maturity Date and (d) as to the Tranche D Term Loan, (i) the period commencing on (and including) the Tranche D Term Loan Borrowing Date and ending on (and including) the last day of the calendar month in which the Tranche D Term Loan Borrowing Date occurs, and (ii) thereafter, the period beginning on (and including) the first day of each succeeding calendar month and ending on the earlier of (and including) (x) the last day of such calendar month and (y) the Maturity Date.

“Invention” means any novel, inventive or useful art, apparatus, method, process, machine (including any article or Product), manufacture or composition of matter, or any novel, inventive and useful improvement in any art, method, process, machine (including any article or Product), manufacture or composition of matter.

“Investment” means, for any Person: (a) the acquisition (whether for cash, Property, services or securities or otherwise) of Equity Interests, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any “short sale” or any sale of any securities at a time when such securities are not owned by the Person entering into such sale); (b) the making of any deposit with, or advance, loan, assumption of debt or other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person), but excluding any such advance, loan or extension of credit in the nature of an ordinary course trade receivable having a term not exceeding ninety (90) days arising in connection with the sale of services, inventory or supplies by such Person in the Ordinary Course of Business; (c) the entering into of any Guarantee of, or other contingent obligation with respect to, Indebtedness or other liability of any other Person and (without duplication) any amount committed to be advanced, lent or extended to such Person; (d) entering into any joint venture; or (e) the entering into of any Hedging Agreement. The amount of an Investment will be determined at the time the Investment is made without giving effect to any subsequent changes in value.

“IRS” means the U.S. Internal Revenue Service or any successor agency, and to the extent relevant, the U.S. Department of the Treasury.

“Knowledge” means to the “best of” the Borrower’s knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of the Responsible Officers.

"Laws" means, collectively, all international, foreign, federal, state, provincial, territorial, municipal and local statutes, treaties, rules, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and Permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"LDT" means (a) any in vitro diagnostic product that is intended for clinical use and that is designed, validated, and used within a single CLIA-certified laboratory that meets the regulatory requirements under CLIA to perform high complexity testing, (b) any other item that meets the definition of "laboratory developed test" as set forth in any Regulated Product Law, or (c) any other item that is regulated as a laboratory diagnostic test by any applicable non-U.S. Regulatory Authority.

"Lenders" has the meaning set forth in the introduction hereto.

"Letter Agreement" means that certain Letter Agreement, dated as of the Closing Date, among the Obligor, the Lender and the Administrative Agent.

"Lien" means any mortgage, lien, pledge, charge or other security interest, or any lease, title retention agreement, mortgage, restriction, easement, right-of-way, option or adverse Claim (of ownership or possession) or other encumbrance of any kind or character whatsoever or any preferential arrangement that has the practical effect of creating a security interest.

"Loan Documents" means, collectively, this Agreement, any Notes, the Security Documents, any Guarantee Assumption Agreement, the Letter Agreement, the Warrant Certificate, any intercompany notes, any collateral access agreement or bailee waiver, and any subordination agreement, intercreditor agreement or other present or future document, instrument, agreement or certificate delivered to any Lender in connection with this Agreement or any of the other Loan Documents, in each case, as amended, restated, amended and restated, supplemented or otherwise modified.

"Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of such Lender's portion of the Term Loans; *provided*, at any time prior to the making of a Term Loan, the Loan Exposure of any Lender shall be equal to such Lender's Commitment with respect to such Term Loan.

"Loss" means judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any Claim or any proceeding relating to any Claim.

"Majority Lenders" means, at any time, one or more Lenders having or holding Loan Exposure and representing more than 50% of the aggregate Loan Exposure of all Lenders.

“*Margin Stock*” means “margin stock” within the meaning of Regulations U and X.

“*Material Adverse Change*” and “*Material Adverse Effect*” mean a material adverse change in or effect on (a) the business, financial condition, results of operations, performance or Property of the Obligors taken as a whole, (b) the ability of the Obligors to perform their obligations under any Loan Document, taken as a whole or (c) the legality, validity, binding effect or enforceability of the Loan Documents or the rights and remedies of any Lender under any of the Loan Documents.

“*Material Agreement*” means (a) any Contract which is listed in Schedule 7.14, (b) any other Contract to which any Obligor is a party or a beneficiary from time to time, or to which any assets or properties of any Obligor is bound, the loss or termination of which would reasonably be expected to result in a Material Adverse Effect and (c) any other Contract to which any Obligor is a party or a guarantor (or equivalent) whether existing as of the date hereof or in the future that during any period of twelve (12) consecutive months is reasonably expected to (i) result in payments or receipts (including royalty, licensing or similar payments) made to any Obligor in an aggregate amount in excess of \$2,500,000 or (ii) require payments or expenditures (including royalty, licensing or similar payments) made by any Obligor in an aggregate amount in excess of \$2,500,000.

“*Material Indebtedness*” means, at any time, any Indebtedness of any Obligor, the outstanding principal amount of which, individually or in the aggregate, exceeds \$2,000,000.

“*Maturity Date*” means the earlier to occur of (a) the Stated Maturity Date, and (b) the date on which the Term Loans are accelerated pursuant to Section 10.02.

“*Multiemployer Plan*” means any “multiemployer plan”, as defined in Section 4001(a)(3) of ERISA, with respect to which any Obligor or ERISA Affiliate incurs, or otherwise has, any obligation or liability, contingent or otherwise.

“*Net Cash Proceeds*” means,

(a) with respect to any Casualty Event, the amount of cash proceeds actually received from time to time by or on behalf of such Obligor after deducting therefrom only (i) actual costs and expenses related thereto incurred by such Obligor and (ii) Taxes paid or payable in each case, in connection therewith or as a result thereof; and

(b) with respect to any Asset Sale, the excess, if any, of (i) cash proceeds received in respect of such Asset Sale (including cash proceeds subsequently received (as and when received)) over (ii) the sum of (A) the direct costs of such Asset Sale then payable by the recipient of such proceeds excluding amounts payable to any Obligor or any of its Subsidiaries, (B) Taxes paid or payable by such recipient in connection therewith or as a result thereof, (C) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Permitted Lien on the properties subject to such Asset Sale and (D) amounts reserved or deposited in escrow with

respect to indemnity payments or price adjustments until such amounts are released to the applicable Obligor or any of its Subsidiaries.

“*Net Revenue*” means, with respect to the Obligors, all amounts paid to and received by such Person in the Ordinary Course of Business that, in accordance with GAAP, would be classified as net revenue.

“*Note*” means a promissory note executed and delivered by the Borrower to any Lender in the form attached hereto as Exhibit C.

“*Obligations*” means, with respect to any Obligor, all amounts, obligations (including without limitation, all Warrant Obligations), liabilities, covenants and duties of every type and description owing by such Obligor to any Lender or any other Indemnified Party hereunder, arising out of, under, or in connection with, any Loan Document, whether direct or indirect (regardless of whether acquired by assignment), absolute or contingent, due or to become due, whether liquidated or not, now existing or hereafter arising and however acquired, and whether or not evidenced by any instrument for the payment of money, including, without duplication, (a) the principal amount of the Term Loans, (b) all interest on the Term Loans (including interest at the Default Rate), whether or not accruing after the filing of any petition in bankruptcy or after the commencement of any insolvency, reorganization or similar proceeding, and whether or not a Claim for post-filing or post-petition interest is allowed in any such proceeding, (c) any Prepayment Premium and (d) all fees, costs and expenses due and payable pursuant to Section 13.03, interest, commissions, charges, costs, disbursements, indemnities and reimbursement of amounts paid and other sums chargeable to such Obligor under any Loan Document.

“*Obligor Intellectual Property*” means, at any time of determination, Intellectual Property owned by, licensed to or otherwise held by any Obligor at such time including, without limitation, the Intellectual Property listed on Schedule 7.05(b).

“*Obligors*” means, collectively, the Borrower and each Guarantor.

“*OFAC*” means the Office of Foreign Assets Control of the U.S. Department of the Treasury (or any successor thereto).

“*Ordinary Course of Business*” means, with respect to the Obligors, the ordinary course of business generally consistent with past custom and practice (including with respect to nature, scope, magnitude, quantity and frequency).

“*Organizational Documents*” means (a) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its bylaws, as amended, (b) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (c) with respect to any general partnership, its partnership agreement, as amended, and (d) with respect to any limited liability company, its certificate of formation or articles of organization, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar government official, the reference to

any such “Organizational Document” shall only be to a document of a type customarily certified by such government official.

“*Other Connection Taxes*” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Term Loan or Loan Document).

“*Other Taxes*” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.03(g)).

“*Participant*” has the meaning set forth in Section 13.05(e).

“*Participant Register*” has the meaning set forth in Section 13.05(f).

“*Patents*” has the meaning set forth in the Security Documents.

“*Payment Date*” means the last day of each Interest Period; *provided* that if such last day of such Interest Period is not a Business Day, then the Payment Date for such Interest Period will be the next succeeding Business Day.

“*PBGC*” means the United States Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“*Perceptive*” has the meaning set forth in the introduction hereto.

“*Periodic Term SOFR Determination Day*” has the meaning specified in the definition of “Term SOFR.”

“*Permits*” means all permits, licenses, registrations, certificates, orders, approvals, authorizations, consents, waivers, franchises, variances and similar rights issued by or obtained from any Governmental Authority or any other Person, including, without limitation, those relating to Environmental Laws and Health Care Laws.

“*Permitted Acquisition*” means any Acquisition by any Obligor or any of its wholly-owned Subsidiaries, by (a) purchase, merger, amalgamation, license or otherwise, of all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person or (b) license arrangement for the rights to use, develop, market or otherwise commercialize any Patents, Trademarks, Copyrights or other Intellectual Property (other than ordinary course, over the counter software license arrangements); *provided* that:

(i) immediately prior to, and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(ii) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable Laws and in conformity in all material respects with all applicable Governmental Approvals;

(iii) in the case of the Acquisition of all of the Equity Interests of such Person, all of the Equity Interests (except for any such securities in the nature of directors' qualifying shares required pursuant to applicable Law) acquired, or otherwise issued by such Person or any newly formed Subsidiary of such Obligor in connection with such Acquisition, shall be owned 100% by an Obligor and the Borrower shall have taken, or caused to be taken, as of the date such Person becomes a Subsidiary of an Obligor, each of the actions set forth in Section 8.11, if applicable;

(iv) such Person (in the case of an Acquisition of Equity Interests) or assets (in the case of an Acquisition of assets or a division) (A) shall be engaged or used, as the case may be, in the same business or lines of business in which the Borrower and/or its Subsidiaries are engaged or a business reasonably and substantially similar or related thereto or (B) shall have a similar customer base as the Borrower;

(v) the Borrower shall have provided the Administrative Agent with at least ten (10) Business Days' prior written notice of any such Acquisition, together with summaries, prepared in reasonable detail, of all material due diligence conducted by or on behalf of the Borrower or the applicable Subsidiary prior to such Acquisition;

(vi) all of the assets or Equity Interests acquired in connection with such Acquisition shall be of a U.S. Person;

(vii) the Acquisition shall have been approved by the Board or other governing body or controlling Person of the Person acquired or the Person from whom such assets or division is acquired; and

(viii) on a *pro forma* basis after giving effect to such Acquisition, the Obligors shall be in compliance with Sections 8.15(a) and 8.15(b).

"Permitted Cash Equivalent Investments" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper having the highest, or second highest, rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (c) any money market funds or other investment vehicles whose principal

investments are in investments described in clauses (a) or (b) above, (d) certificates of deposit or bankers' acceptances issued or accepted by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that is at least (A) "adequately capitalized" (as defined in the regulations of its primary Federal banking regulator) and (B) has Tier 1 capital (as defined in such regulations) of not less than \$250,000,000; (e) investments permitted by the investment policy approved by the board of directors of Borrower, so long as Borrower provides written notice to the Lenders of any changes to the investment policy delivered to the Lenders on the Closing Date and such changes will not adversely affect the Lenders in any material respect in the determination of the Lenders in their reasonable discretion and (f) certificates of deposit maturing no more than one (1) year after issue.

"*Permitted Indebtedness*" means any Indebtedness permitted under Section 9.01.

"*Permitted Licenses*" means (a) licenses of over-the-counter software that is commercially available to the public, (b) inbound licenses for the use of any Patents, Trademarks, Copyrights, Industrial Designs and Technical Information of any third party and (c) non-exclusive licenses for the use of Obligor Intellectual Property, in each case, entered into in the Ordinary Course of Business or as otherwise may be approved by the applicable Obligor's Board and so long as (i) no Event of Default has occurred and is continuing at the time such license is entered into and (ii) such license does not materially impair the Lenders from exercising their rights under any of the Loan Documents.

"*Permitted Liens*" means any Liens permitted under Section 9.02.

"*Permitted Refinancing*" means, with respect to any Indebtedness permitted to be refinanced, extended, renewed or replaced hereunder, any refinancings, extensions, renewals and replacements of such Indebtedness; *provided* that such refinancing, extension, renewal or replacement shall not (a) increase the outstanding principal amount of the Indebtedness being refinanced, extended, renewed or replaced, (b) contain terms relating to outstanding principal amount, amortization, interest rate or equivalent yield, maturity, collateral security (if any) or subordination (if any), or other material terms that, taken as a whole, are less favorable in any material respect to any Obligor or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, (c) contain any new requirement to grant any Lien or to give any Guarantee that was not an existing requirement of the Indebtedness being refinanced and (d) after giving effect to such refinancing, extension, renewal or replacement, no Default shall have occurred (or could reasonably be expected to occur) as a result thereof.

"*Person*" means any individual, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization or Governmental Authority or other entity of whatever nature.

"*PFIC*" has the meaning set forth in Section 8.01(i).

"*Prepayment Premium*" has the meaning set forth in Section 3.03(a).

"*Pro Rata Share*" has the meaning set forth in Section 11.08.

“Product” means any and all products of an Obligor that are sold or intended to be sold, including (a) those LDTs and Devices, if any, set forth (and described in reasonable detail) on Schedule 3 attached hereto, and (b) any current or future LDT or Device subject to any Product Development and Commercialization Activities by any Obligor, including any such LDT or Device currently in development. For the avoidance of doubt, all Products as of the Closing Date constitute LDTs.

“Product Agreement” means, with respect to any Product, any Contract, license, document, instrument, interest (equity or otherwise) or the like under which one or more Persons grants or receives (a) any right, title or interest with respect to any Product Development and Commercialization Activities of such Product, or (b) any right to exclude any other Person from engaging in, or otherwise restricting any right, title or interest as to, any Product Development and Commercialization Activities with respect to such Product, including any Contract with suppliers, manufacturers, distributors, clinical research organizations, hospitals, group purchasing organizations, wholesalers, pharmacies or any other Person related to such entity.

“Product Assets” means, with respect to any Product, (a) any and all rights, title and interest of the Obligors or any of their Subsidiaries in any assets relating to such Product or any Product Development and Commercialization Activities with respect to such Product, (b) all Product Related Information with respect to such Product or any related Product Development and Commercialization Activities, (c) any Product Agreement related to such Product or any such Product Development and Commercialization Activities, (d) any Intellectual Property, Regulatory Approvals and similar assets with respect to such Product or any such Product Development and Commercialization Activities, and (e) all rights, title and interests in any other property, tangible or intangible, manifesting or otherwise in respect of such Product or any such Product Development and Commercialization Activities, including, without limitation, inventory, accounts receivable or similar rights to receive money or payment pertaining thereto and all proceeds of the foregoing.

“Product Development and Commercialization Activities” means, with respect to any Product, any combination of research, development, manufacture, import, use, sale, licensing, importation, storage, design, labeling, marketing, promotion, supply, distribution, testing, packaging, purchasing or other commercialization activities, receipt of payment in respect of any of the foregoing (including, without limitation, in respect of licensing, royalty or similar payments), or any similar or other activities the purpose of which is to commercially exploit such Product.

“Product Related Information” means, with respect to any Product, all books, records, lists, ledgers, files, manuals, Contracts, correspondence, reports, plans, drawings and data (in any form or medium), and all techniques and other know-how, owned or possessed by the Obligors or any of their Subsidiaries that are necessary or required for any Product Development and Commercialization Activities relating to such Product, including (a) brand materials, packaging and other trade dress, customer targeting and other marketing, promotion and sales materials and information, referral, customer, supplier and other contact lists and information, product, business, marketing and sales plans, research, studies and reports, sales, maintenance and production records, training materials and other marketing, sales and promotional information, (b) clinical

data, information included or supporting any Regulatory Approval, any regulatory filings, updates, notices and correspondence (including adverse event and other pharmacovigilance and other post-marketing reports and information, etc.), technical information, product development and operational data and records, and all other documents, records, files, data and other information relating to product development, manufacture and use, (c) litigation and dispute records, and accounting records, (d) all documents, records and files relating to Intellectual Property, including all correspondence from and to third parties (including Intellectual Property counsel and patent, trademark and other intellectual property registries, including the United States Patent and Trademark Office), and (e) all other information, techniques and know-how necessary or required in connection with the Product Development and Commercialization Activities for any Product.

“Prohibited Payment” means any bribe, rebate, payoff, influence payment, kickback or other payment or gift of money or anything of value (including meals or entertainment) to any officer, employee or ceremonial office holder of any government or instrumentality thereof, political party or supra-national organization (such as the United Nations), any political candidate, any royal family member or any other person who is connected or associated personally with any of the foregoing that is prohibited under any Requirement of Law.

“Projections” has the meaning set forth in Section 7.04(b).

“Property” of any Person means any property or assets, or interest therein, of such Person.

“Proportionate Share” means, with respect to any Lender, the percentage obtained by dividing (a) the Loan Exposure of such Lender then in effect by (b) the aggregate Loan Exposure of all Lenders then in effect.

“Proposal Letter” means the letter agreement, dated March 10, 2025, among the Borrower and Perceptive Advisors LLC, regarding the transactions contemplated hereby and the outline of proposed terms and conditions attached thereto.

“Publicly Reporting Company” means an issuer generally subject to the public reporting requirements of the Exchange Act.

“Qualified Equity Interest” means, with respect to any Person, any Equity Interest of such Person that is not a Disqualified Equity Interest.

“Recipient” means any Lender or the Administrative Agent.

“Redemption Date” has the meaning set forth in Section 3.03(a).

“Redemption Price” has the meaning set forth in Section 3.03(a).

“Referral Source” has the meaning set forth in Section 7.07(b)(i).

“Register” has the meaning set forth in Section 13.05(d).

“Regulated Product Laws” means all Laws relating to the Product Development and Commercialization Activities of an Obligor, including, as applicable (a) CLIA and state laboratory licensing laws, (b) the FD&C Act, or (c) any non-U.S. equivalent of the foregoing.

“Regulation T” means Regulation T of the Board of Governors of the Federal Reserve System, as amended.

“Regulation U” means Regulation U of the Board of Governors of the Federal Reserve System, as amended.

“Regulation X” means Regulation X of the Board of Governors of the Federal Reserve System, as amended.

“Regulatory Approvals” means any Governmental Approval relating to any Product or any Product Development and Commercialization Activities related to such Product.

“Regulatory Authority” means any Governmental Authority that is concerned with or has regulatory or supervisory oversight with respect to any Product or any Product Development and Commercialization Activities relating to any Product, including the Centers for Medicare & Medicaid Services, the FDA and all equivalent Governmental Authorities, whether U.S. or non-U.S.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“Representatives” has the meaning set forth in Section 13.17.

“Requirement of Law” means, as to any Person, any Law applicable to or binding upon such Person or any of its Properties or revenues.

“Resignation Effective Date” has the meaning set forth in Section 12.06(a).

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” of any Person means each of the president, chief executive officer, general counsel and chief financial officer of such Person.

“Restricted Payment” means any dividend or other distribution (which shall include any management fees) (whether in cash, securities or other Property) with respect to any Equity Interest of an Obligor or any of its Subsidiaries, or any payment (whether in cash, securities or other Property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Equity Interests of an Obligor or any of its Subsidiaries or any option, warrant or other right to acquire any Equity Interests of an Obligor or any of its Subsidiaries.

“*Restrictive Agreement*” means any indenture, agreement, instrument or other binding arrangement that prohibits, restricts or imposes any condition upon (a) the ability of an Obligor or any Subsidiary to create, incur or permit to exist any Lien upon any of its Property (other than (i) customary provisions in Contracts (including without limitation leases and in-bound licenses of Intellectual Property) restricting the assignment thereof, (ii) restrictions or conditions imposed by any agreement governing secured Permitted Indebtedness permitted under Section 9.01(g), to the extent that such restrictions or conditions apply only to the Property securing such Indebtedness, (iii) software and other Intellectual Property licenses pursuant to which an Obligor or a Subsidiary thereof is the licensee of the relevant software or Intellectual Property, as the case may be (in which case, any prohibition or limitation shall relate only to the assets or rights subject to the applicable license and/or the license itself)) (iv) restrictions in joint venture or similar agreements and (v) restrictions contained in any collaboration agreement, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its Equity Interests or to make or repay loans or advances to an Obligor or any other Subsidiary or to Guarantee Indebtedness of an Obligor or any other Subsidiary.

“*Sanctions*” means economic or financial sanctions, requirements or trade embargoes imposed, administered or enforced from time to time by any Governmental Authority (including, but not limited to, OFAC, the U.S. Department of State and the U.S. Department of Commerce).

“*Sanctions Laws*” means all laws, rules, regulations and requirements of any jurisdiction applicable to the Obligors or any party to the Loan Documents concerning or relating to Sanctions, terrorism or money laundering.

“*SEC*” means United States Securities and Exchange Commission.

“*Securities Account*” has the meaning set forth in the Security Agreement.

“*Security Agreement*” means the Security Agreement, dated as of the date hereof (as the same may be amended, restated, amended and restated, modified, or supplemented from time to time), in substantially the form of Exhibit G, among the Obligors, the Lenders and the Administrative Agent, granting a security interest in the personal Property constituting Collateral thereunder in favor of the Administrative Agent for the benefit of the Lenders.

“*Security Documents*” means, collectively, the Security Agreement, each Short-Form IP Security Agreement, and each other security document, control agreement or financing statement executed to perfect Liens in favor of the Administrative Agent for the benefit of the Lenders.

“*Segregated Health Care Account*” means, a Deposit Account of an Obligor in the name of such Obligor and under the sole dominion and control of such Obligor maintained in accordance with the requirements of Section 8.17(c) hereof, the only funds on deposit in which constitute the direct proceeds of payments made by Federal Health Care Programs.

“*Short-Form IP Security Agreements*” means any short-form copyright, patent or trademark (as the case may be) security agreements, in substantially the form of Exhibits H-1 and

H-2, entered into by one or more Obligors in favor of the Administrative Agent for the benefit of the Lenders, each in form and substance reasonably satisfactory to the Administrative Agent.

“*SOFR*” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“*SOFR Administrator*” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“*SOFR Administrator’s Website*” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“*SOFR Determination Day*” has the meaning specified in the definition of “*Daily Simple SOFR*”.

“*SOFR Rate Day*” has the meaning specified in the definition of “*Daily Simple SOFR*”.

“*Solvent*” means, with respect to any Person at any time, that (a) the present fair saleable value of the Property of such Person is greater than the total amount of liabilities (including contingent liabilities) of such Person, (b) the present fair saleable value of the Property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, and (c) such Person has not incurred and does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature.

“*Standard Body*” means any of the organizations that create, sponsor or maintain safety, quality or other standards, including ISO, ANSI, CEN and SCC and the like.

“*Stated Maturity Date*” means the fifth (5th) anniversary of the Closing Date; *provided* that if any such date shall occur on a day that is not a Business Day, then the Stated Maturity Date shall be the immediately succeeding Business Day.

“*Subsidiary*” means, with respect to any Person (the “*parent*”) at any time of determination, any other Person of which more than 50% of the outstanding capital stock of such other Person having ordinary voting powers, determined on a fully diluted basis, is at the time directly or indirectly owned or Controlled by the parent. Unless the context otherwise specifically requires, the term “*Subsidiary*” shall be a reference to a Subsidiary of the Borrower.

“*Sweep Agreement*” means an agreement, in form and substance reasonably satisfactory to the Administrative Agent, between an Obligor maintaining a Segregated Health Care Account, the Administrative Agent and applicable bank or other financial institution at which such Segregated Health Care Account is maintained, pursuant to which such bank or financial institution (a) agrees to automatically sweep amounts deposited in such Segregated Health Care Account to a Controlled Account satisfying the requirements set forth in Section 8.17(c) hereof, as and when funds clear and become available in accordance with such bank’s or financial institution’s standard practices

and procedures, and (b) agrees not to change such standing sweep instructions until the date at least five (5) days (or such lesser period as the Administrative Agent may agree in its sole discretion or as may be required by applicable Law relating to the Federal Health Care Programs) after receipt of notice from such Obligor maintaining such Segregated Health Care Account by the Administrative Agent and such bank or financial institution of the termination of such standing sweep instruction.

“*Taxes*” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax, penalties or other liabilities applicable thereto, whether disputed or not.

“*Technical Information*” means all trade secrets and other proprietary or confidential information, which may include any proprietary information of a scientific, technical, or business nature in any form or medium, standards and specifications, conceptions, ideas, innovations, discoveries, Invention disclosures, all documented research, developmental, demonstration or engineering work, data, plans, specifications, reports, summaries, experimental data, manuals, models, samples, know-how, technical information, systems, methodologies, computer programs or information technology.

“*Term Loans*” means the Tranche A Term Loan, the Tranche B Term Loan, the Tranche C Term Loan and the Tranche D Term Loan.

“*Term SOFR*” means the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the “*Periodic Term SOFR Determination Day*”) that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; *provided, however*, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; *provided, further*, Term SOFR shall be rounded upwards to the next 1/100% (if necessary); *provided, further, however*, if Term SOFR as so determined shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

“*Term SOFR Administrator*” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

“*Term SOFR Reference Rate*” means the forward-looking term rate based on SOFR.

“Third-Party Payor Authorizations” means all participation agreements, provider or supplier agreements, enrollments, accreditations, and billing numbers required to participate in and receive reimbursement from a Third-Party Payor Program.

“Third-Party Payor Program” means any Federal Health Care Program, or any other health care payment or reimbursement program in which an Obligor or Subsidiary participates, including programs sponsored by private insurers or managed care plans

“Title IV Plan” means an “employee benefit plan” as defined in Section 3(3) of ERISA (other than a Multiemployer Plan) (a) that is maintained, sponsored or contributed to by any Obligor or ERISA Affiliate or with respect to which any Obligor or ERISA Affiliate has or may have liability and (b) that is or was subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA.

“Trademarks” has the meaning set forth in the Security Documents.

“Tranche A Term Loan” means the term loan advanced by a Lender pursuant to Section 2.01(a). For purposes of clarification, any calculation of the aggregate outstanding principal amount of the Tranche A Term Loan on any date of determination shall mean the aggregate principal amount of the Tranche A Term Loan made pursuant to Section 2.01(a) that has not yet been repaid as of such date.

“Tranche A Term Loan Commitment” means the commitment of a Lender to make or otherwise fund the Tranche A Term Loan and *“Tranche A Term Loan Commitments”* means such commitments of all Lenders in the aggregate. The amount of each Lender’s Tranche A Term Loan Commitment, if any, is set forth on Schedule 1. The aggregate amount of the Tranche A Term Loan Commitments as of the Closing Date is \$25,000,000.

“Tranche B Term Loan” means the term loan advanced by a Lender pursuant to Section 2.01(b). For purposes of clarification, any calculation of the aggregate outstanding principal amount of the Tranche B Term Loan on any date of determination shall mean the aggregate principal amount of the Tranche B Term Loan made pursuant to Section 2.01(b) that has not yet been repaid as of such date.

“Tranche B Term Loan Borrowing Date” means with respect to the Tranche B Term Loan, the Business Day on which all conditions set forth in Section 6.02 have been satisfied or waived by the Lenders and the Tranche B Term Loan is made hereunder.

“Tranche B Term Loan Commitment” means the commitment of a Lender to make or otherwise fund the Tranche B Term Loan and *“Tranche B Term Loan Commitments”* means such commitments of all Lenders in the aggregate. The amount of each Lender’s Tranche B Term Loan Commitment, if any, is set forth on Schedule 1. The aggregate amount of the Tranche B Term Loan Commitments as of the Closing Date is \$10,000,000.

“Tranche B Term Loan Commitment Termination Date” means March 31, 2026.

“Tranche C Term Loan” means the term loan advanced by a Lender pursuant to Section 2.01(c). For purposes of clarification, any calculation of the aggregate outstanding principal amount of the Tranche C Term Loan on any date of determination shall mean the aggregate principal amount of the Tranche C Term Loan made pursuant to Section 2.01(c) that has not yet been repaid as of such date.

“Tranche C Term Loan Availability Period” means the period commencing on March 31, 2026 and ending on the Tranche C Term Loan Commitment Termination Date.

“Tranche C Term Loan Borrowing Date” means with respect to the Tranche C Term Loan, the Business Day on which all conditions set forth in Section 6.03 have been satisfied or waived by the Lenders and the Tranche C Term Loan is made hereunder.

“Tranche C Term Loan Commitment” means the commitment of a Lender to make or otherwise fund the Tranche C Term Loan and *“Tranche C Term Loan Commitments”* means such commitments of all Lenders in the aggregate. The amount of each Lender’s Tranche C Term Loan Commitment, if any, is set forth on Schedule 1. The aggregate amount of the Tranche C Term Loan Commitments as of the Closing Date is \$10,000,000.

“Tranche C Term Loan Commitment Termination Date” means December 31, 2026.

“Tranche D Term Loan” means the term loan advanced by a Lender pursuant to Section 2.01(d). For purposes of clarification, any calculation of the aggregate outstanding principal amount of the Tranche D Term Loan on any date of determination shall mean the aggregate principal amount of the Tranche D Term Loan made pursuant to Section 2.01(d) that has not yet been repaid as of such date.

“Tranche D Term Loan Borrowing Date” means with respect to the Tranche D Term Loan, the Business Day on which Borrower requests the Tranche D Term Loan be made and all conditions set forth in Section 6.04 have been satisfied or waived by the Lenders and the Tranche D Term Loan is made hereunder.

“Tranche D Term Loan Expiration Date” means March 31, 2027.

“Tranche D Term Loan Request” means a notice requesting the Tranche D Term Loan substantially in the form of Exhibit J.

“Tranche D Term Loan Maximum Amount” means \$30,000,000.

“Transactions” means the execution, delivery and performance by each Obligor of this Agreement and the other Loan Documents to which such Obligor is a party and the other transactions contemplated hereby and thereby, including disbursement and application of the proceeds of the Term Loans.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential

Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“*UK Resolution Authority*” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“*Unadjusted Benchmark Replacement*” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“*Unrestricted Cash*” means the balance of unencumbered cash (other than cash encumbered by the Liens granted to the Administrative Agent on behalf of the Lenders pursuant to the Loan Documents) and Permitted Cash Equivalent Investments (which for greater certainty shall not include any undrawn credit lines), in each case, to the extent held in a Controlled Account.

“*U.S. Government Securities Business Day*” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“*U.S. Person*” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“*U.S. Tax Compliance Certificate*” has the meaning set forth in Section 5.03(f)(ii)(B)(3).

“*Warrant Certificate*” means the warrant to be delivered to the Administrative Agent pursuant to Section 6.01(e)(xii) that, among other things, grants the holder thereof the right to purchase the number of common shares of the Borrower as indicated on the warrant shares table on Schedule 1, as the Warrant Certificate may be amended, replaced or otherwise modified pursuant to the terms thereof.

“*Warrant Obligations*” means, with respect to the Borrower, all of its Obligations arising out of, under or in connection with, any Warrant Certificate.

“*Write-Down and Conversion Powers*” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such Contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02. Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made substantially in accordance with GAAP. If, after the date hereof, any change occurs in GAAP or in the application thereof (an “*Accounting Change*”) and such change would cause any amount required to be determined for the purposes of the covenants to be maintained or calculated pursuant to Article 8 or 9 to be materially different than the amount that would be determined prior to such change, then the Borrower will provide a detailed notice of such change (an “*Accounting Change Notice*”) to the Administrative Agent in conjunction with the next required delivery of financial statements pursuant to Section 8.01. If the Borrower requests an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Closing Date or in the application thereof on the operation of such provision, regardless of whether any Accounting Change Notice is given before or after such Accounting Change or in the application thereof, then the Administrative Agent and the Borrower agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Administrative Agent and the Borrower after such Accounting Change conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, (a) the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred and (b) the Borrower shall provide to the Administrative Agent a written reconciliation in form and substance reasonably satisfactory to the Administrative Agent, between calculations of any baskets and other requirements hereunder before and after giving effect to such Accounting Change.

All components of financial calculations made to determine compliance with this Agreement shall be adjusted to include or exclude, as the case may be, without duplication, such components of such calculations attributable to any Acquisition, other Investment or disposition of assets consummated after the first day of the applicable period of determination and prior to the end of such period, as determined in good faith by the Borrower based on assumptions expressed therein and that were reasonable based on the information available to the Borrower at the time of preparation of the Compliance Certificate setting forth such calculations.

Notwithstanding the foregoing, with respect to the accounting for leases as either operating leases or Capital Leases and the impact of such accounting in accordance with FASB ASC 842 on the definitions and covenants herein, GAAP as in effect prior to the adoption of FASB ASC 842 shall be applied.

Section 1.03. Interpretation. For all purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires, (a) the terms defined in this Agreement include the plural as well as the singular and vice versa; (b) words importing gender include all genders; (c) any reference to a Section, Article, Annex, Schedule or Exhibit refers to a Section or Article of, or Annex, Schedule or Exhibit to, this Agreement; (d) any reference to “this Agreement” refers to this Agreement, including all Annexes, Schedules and Exhibits hereto, and the words herein, hereof, hereto and hereunder and words of similar import refer to this Agreement and its Annexes, Schedules and Exhibits as a whole and not to any particular Section, Article, Annex, Schedule, Exhibit or any other subdivision; (e) references to days, months and years refer to calendar days, months and years, respectively; (f) all references herein to “include” or

“including” shall be deemed to be followed by the words “without limitation”; (g) the word “from” when used in connection with a period of time means “from and including” and the word “until” means “to but not including”; and (h) accounting terms not specifically defined herein shall be construed substantially in accordance with GAAP (except for the term “property,” which shall be interpreted as broadly as possible, including, in any case, cash, securities, other assets, rights under contractual obligations and Permits and any right or interest in any property, except where otherwise noted). Unless otherwise expressly provided herein, references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendments and restatements, extensions, supplements and other modifications thereto permitted by the Loan Documents.

Section 1.04. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

Section 1.05. Interest Rates. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Term SOFR Reference Rate, Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Term SOFR Reference Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Term SOFR Reference Rate, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Term SOFR Reference Rate, Term SOFR or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE 2
THE COMMITMENTS

Section 2.01. Term Loans.

(a) *Tranche A Term Loan.*

(i) Subject to the terms and conditions of this Agreement, each Lender, severally and not jointly, agrees to provide its share of the Tranche A Term Loan to the Borrower on the Closing Date in Dollars in a principal amount equal to such Lender's Tranche A Term Loan Commitment. No Lender shall have an obligation to make a Tranche A Term Loan in excess of such Lender's Tranche A Term Loan Commitment.

(ii) Subject to the terms and conditions of this Agreement (including Section 6.01), the Borrower shall deliver to the Administrative Agent a fully executed Borrowing Notice no later than 5 p.m. (New York City time) at least one (1) Business Day in advance of the Closing Date.

(iii) The Borrower may make one borrowing under the Tranche A Term Loan Commitment which shall be on the Closing Date. Subject to Sections 3.01 and 3.03, all amounts owed hereunder with respect to the Tranche A Term Loan (other than unasserted contingent liabilities) shall be paid in full no later than the Maturity Date. Each Lender's Tranche A Term Loan Commitment shall terminate immediately and without further action on the Closing Date after giving effect to the funding of such Lender's Tranche A Term Loan Commitment on such date.

(b) *Tranche B Term Loan.*

(i) Subject to the terms and conditions of this Agreement, each Lender, severally and not jointly, agrees prior to the Tranche B Term Loan Commitment Termination Date, to provide its share of the Tranche B Term Loan to the Borrower on the Tranche B Term Loan Borrowing Date in Dollars in a principal amount equal to such Lender's Tranche B Term Loan Commitment. No Lender shall have an obligation to make the Tranche B Term Loan in excess of such Lender's Tranche B Term Loan Commitment.

(ii) Subject to the terms and conditions of this Agreement (including Section 6.02), the Borrower shall deliver to the Administrative Agent a fully executed Borrowing Notice no later than 5 p.m. (New York City time) at least three

(3) Business Days in advance of the proposed Tranche B Term Loan Borrowing Date.

(iii) The Borrower may make one borrowing under the Tranche B Term Loan Commitment which shall be on the Tranche B Term Loan Borrowing Date. Subject to Sections 3.01 and 3.03, all amounts owed hereunder with respect to the Tranche B Term Loan (other than unasserted contingent liabilities) shall be paid in full no later than the Maturity Date. Each Lender's Tranche B Term Loan Commitment shall terminate immediately and without further action on the earlier of (x) the Tranche B Term Loan Borrowing Date after giving effect to the funding of such Lender's Tranche B Term Loan Commitment on such date and (y) the Tranche B Term Loan Commitment Termination Date.

(c) *Tranche C Term Loan.*

(i) During the Tranche C Term Loan Availability Period, subject to the terms and conditions of this Agreement, each Lender, severally and not jointly, agrees to provide its share of the Tranche C Term Loan to the Borrower on the Tranche C Term Loan Borrowing Date in Dollars in a principal amount equal to such Lender's Tranche C Term Loan Commitment. No Lender shall have an obligation to make the Tranche C Term Loan in excess of such Lender's Tranche C Term Loan Commitment.

(ii) Subject to the terms and conditions of this Agreement (including Section 6.02), the Borrower shall deliver to the Administrative Agent a fully executed Borrowing Notice no later than 5 p.m. (New York City time) at least three (3) Business Days in advance of the proposed Tranche C Term Loan Borrowing Date.

(iii) The Borrower may make one borrowing under the Tranche C Term Loan Commitment which shall be on the Tranche C Term Loan Borrowing Date. Subject to Sections 3.01 and 3.03, all amounts owed hereunder with respect to the Tranche C Term Loan (other than unasserted contingent liabilities) shall be paid in full no later than the Maturity Date. Each Lender's Tranche C Term Loan Commitment shall terminate immediately and without further action on the earlier of (x) the Tranche C Term Loan Borrowing Date after giving effect to the funding of such Lender's Tranche C Term Loan Commitment on such date and (y) the Tranche C Term Loan Commitment Termination Date.

(d) *Tranche D Term Loan.*

(i) Prior to the Tranche D Term Loan Expiration Date, the Borrower may, by delivery of a Tranche D Term Loan Request from Borrower to the Administrative Agent, request to borrow the Tranche D Term Loan from the Lenders in an amount not to exceed the Tranche D Term Loan Maximum Amount.

Within five (5) Business Days following the Administrative Agent's receipt of a Tranche D Term Loan Request, the Administrative Agent shall provide written notice to Borrower of whether or not the Lenders, (x) decline to provide the requested Tranche D Term Loan or (y) elect to provide the requested Tranche D Term Loan. If Administrative Agent does not respond within five (5) Business Days of its receipt of a Tranche D Term Loan Request, the Lenders shall be deemed to have declined to provide such Tranche D Term Loan.

(ii) The Borrower may make one borrowing under the Tranche D Term Loan Amount, which shall be on the Tranche D Term Loan Borrowing Date, prior to the Tranche D Term Loan Expiration Date. Subject to Sections 3.01 and 3.03, all amounts owed hereunder with respect to the Tranche D Term Loan (other than unasserted contingent liabilities) shall be paid in full no later than the Maturity Date.

(e) Any principal amount of the Term Loans borrowed under Sections 2.01(a), (b), (c) or (d) hereof and subsequently repaid or prepaid may not be reborrowed.

Section 2.02. Proportionate Shares. All Term Loans shall be made, and all participations purchased, by the Lenders simultaneously and proportionately to their respective Proportionate Shares, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make a Term Loan hereunder or purchase a participation required hereby nor shall the Commitment of any Lender be increased or decreased as a result of a default by any other Lender in such other Lender's obligation to make a Term Loan requested hereunder or purchase a participation required hereby.

Section 2.03. Fees. On the Closing Date, the Borrower shall pay to the Administrative Agent, in accordance with the provisions of the Letter Agreement and for distribution to each Lender in accordance with its Proportionate Share of the Term Loans, the Closing Fee. Such payments shall be in addition to such fees, costs and expenses due and payable pursuant to Section 13.03.

Section 2.04. Notes. Upon the written request of any Lender, the Borrower shall prepare, execute and deliver to such Lender one or more Notes evidencing the portion of the Term Loans payable to such Lender (or if requested by it, to it and its registered assigns).

Section 2.05. Use of Proceeds. The Borrower shall use the proceeds of the Term Loans (a) for general working capital purposes and corporate purposes permitted hereunder, including certain business development activities, (b) to refinance certain existing Indebtedness on the Closing Date (including Indebtedness outstanding pursuant to the Existing Credit Facility) and (c) to pay fees, costs and expenses incurred in connection with the Transactions.

ARTICLE 3

PAYMENTS OF PRINCIPAL AND INTEREST

Section 3.01. Repayment. There will be no scheduled repayments of principal on the Term Loans prior to the Maturity Date. The entire outstanding principal amount of the Term Loans, together with all accrued and unpaid interest thereon, will be due and payable on the Maturity Date.

Section 3.02. Interest.

(a) *Interest Generally.* The Borrower agrees to pay to the Lenders interest in cash on the outstanding principal amount of the Term Loans for each Interest Period at a rate per annum equal to the sum of (i) Term SOFR plus (ii) the Applicable Margin.

(b) *Term SOFR Conforming Changes.* In connection with the use or administration of Term SOFR and in consultation with the Borrower, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Administrative Agent will promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

(c) *Effect of Benchmark Transition Event.*

(i) *Benchmark Replacement.* Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the then-current Benchmark, then (A) if a Benchmark Replacement is determined in accordance with clause (a) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and any subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (B) if a Benchmark Replacement is determined in accordance with clause (b) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative

Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Majority Lenders.

(ii) *Conforming Changes*. In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to the Loan Documents.

(iii) *Notices; Standards for Decisions and Determinations*. The Administrative Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. Any determination, decision or election that may be made by the Administrative Agent or the Lenders pursuant to this Section 3.02(c) including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.02(c).

(iv) *Unavailability of Tenor of Benchmark*. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (x) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (y) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (x) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (y) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(d) *Default Interest*. Notwithstanding the foregoing, upon the occurrence and during the continuance of any Event of Default and upon the written election of the

Administrative Agent, the Applicable Margin shall increase automatically by 4.00% per annum (the interest rate, as increased pursuant to this Section 3.02(d), being the “*Default Rate*”). Notwithstanding any other provision herein, if interest is required to be paid at the Default Rate, it shall also be paid entirely in cash. If any Obligation is not paid when due under any applicable Loan Document, the amount thereof shall accrue interest at the Default Rate. Payment or acceptance of the increased rates of interest provided for in this Section 3.02(d) is not a permitted alternative to timely payment and shall not constitute a waiver of any Default or otherwise prejudice or limit any rights or remedies of the Administrative Agent or any Lender.

(e) *Payment Dates.* Accrued interest on the Term Loans shall be payable in arrears on each Payment Date with respect to the most recently completed Interest Period in cash, and upon the payment or prepayment of the Term Loans (on the principal amount being so paid or prepaid); *provided* that interest payable at the Default Rate shall be payable from time to time on demand by the Administrative Agent.

(f) *Maximum Rate.* Notwithstanding any other provision of this Agreement, in no event will any interest or rates referred to herein exceed the maximum interest rate permitted by applicable Law. If such maximum interest rate would be exceeded by the terms hereof, the rates of interest payable hereunder will be reduced to the extent necessary so that such rates (together with any fees or other amounts which are construed by a court of competent jurisdiction to be interest or in the nature of interest) equal the maximum interest rate permitted by applicable Law and any overpayment of interest received by the Lenders before such rates are so construed will be applied, forthwith after determination of such overpayment, to pay all then outstanding interest, and thereafter to pay outstanding principal.

Section 3.03. Prepayments.

(a) Optional Prepayments.

(i) The Borrower shall have the right to optionally prepay in whole or in part (in a minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount for each partial prepayment, or, if less, the entire outstanding principal amount of the Term Loans) the outstanding principal amount of the Term Loans on any Business Day (a “*Redemption Date*”) for an amount equal to the sum of (x) the aggregate principal amount of the Term Loans being prepaid, (y) the prepayment premium set forth in clause (ii) below (the “*Prepayment Premium*”) and (z) any accrued but unpaid interest in respect of the aggregate principal amount of the Term Loans being prepaid (such aggregate amount, the “*Redemption*

Price”). The applicable Prepayment Premium shall be an amount calculated pursuant to Section 3.03(a)(ii).

(ii) If the Redemption Date occurs:

(A) on or prior to the first anniversary of the Closing Date, the Prepayment Premium shall be an amount equal to ten percent (10%) of the aggregate outstanding principal amount of the Term Loans being prepaid on such Redemption Date;

(B) after the first anniversary of the Closing Date and on or prior to the second anniversary of the Closing Date, the Prepayment Premium shall be an amount equal to nine percent (9%) of the aggregate outstanding principal amount of the Term Loans being prepaid on such Redemption Date;

(C) after the second anniversary of the Closing Date and on or prior to the third anniversary of the Closing Date, the Prepayment Premium shall be an amount equal to eight percent (8%) of the aggregate outstanding principal amount of the Term Loans being prepaid on such Redemption Date;

(D) after the third anniversary of the Closing Date and on or prior to the fourth anniversary of the Closing Date, the Prepayment Premium shall be an amount equal to six percent (6%) of the aggregate outstanding principal amount of the Term Loans being prepaid on such Redemption Date; and

(E) after the fourth anniversary of the Closing Date and prior to the Stated Maturity Date, the Prepayment Premium shall be an amount equal to two percent (2%) of the aggregate outstanding principal amount of the Term Loans being prepaid on such Redemption Date.

(b) *Mandatory Prepayments.* The Borrower shall prepay the Term Loans in amounts as provided below, plus the Prepayment Premium on the principal amount of the Term Loans being prepaid (calculated in accordance with Section 3.03(a)(ii), it being agreed that the relevant payment date shall be deemed to be the “Redemption Date” for purposes of such calculation), plus any accrued but unpaid interest and fees then due and owing, as follows:

(i) Within five (5) days following receipt by any Obligor of the proceeds of any Casualty Event, an amount equal to 100% of the Net Cash Proceeds received by any Obligor with respect thereto; *provided, however,* so long as no Default has occurred and is continuing, within one hundred eighty (180) days after receipt of such Net Cash Proceeds, the Borrower may reinvest such Net Cash

Proceeds toward the replacement or repair of destroyed or damaged property; *provided, further*, that, subject to the terms of the Loan Documents, any such reinvested property shall be Collateral in which the Administrative Agent for the benefit of the Lenders has been granted a security interest under the Security Documents.

(ii) In the event any Obligor incurs Indebtedness other than Indebtedness that is permitted by Section 9.01 hereof, 100% of the proceeds thereof received by such Obligor. For the avoidance of doubt, any prepayment made pursuant to this Section 3.03(b)(ii) shall not be deemed to be a consent to any such incurrence of Indebtedness or a cure or waiver of any Event of Default which occurs in connection therewith, it being understood that any such Event of Default may only be waived with the express consent of the Majority Lenders.

(iii) In the event any Obligor consummates an Asset Sale other than an Asset Sale that is permitted by Section 9.09 hereof (other than Section 9.09(l)), 100% of the Net Cash Proceeds received by such Obligor in connection with such Asset Sale; *provided, however*, so long as no Default has occurred and is continuing, within one hundred eighty (180) days after receipt of such Net Cash Proceeds, the Borrower may reinvest such Net Cash Proceeds; *provided, further*, that, subject to the terms of the Loan Documents, any such reinvested property shall be Collateral in which the Administrative Agent for the benefit of the Lenders has been granted a security interest under the Security Documents. For the avoidance of doubt, any prepayment made pursuant to this Section 3.03(b)(iii) shall not be deemed to be a consent to any Asset Sale or a cure or waiver of any Event of Default which occurs in connection therewith, it being understood that any such Event of Default may only be waived with the express consent of the Majority Lenders.

(c) *Prepayment Premium.* Payment of any Prepayment Premium under this Section 3.03 constitutes liquidated damages, not unmatured interest or a penalty, as the actual amount of damages to the Lenders as a result of the relevant triggering event, prepayment or repayment would be impracticable and extremely difficult to ascertain. Accordingly, any Prepayment Premium hereunder is provided by mutual agreement of the Obligors and the Lenders as a reasonable estimation and calculation of such actual lost profits and other actual damages of the Lenders. Without limiting the generality of the foregoing, it is understood and agreed that upon the occurrence of any prepayment event, any Prepayment Premium shall be automatically and immediately due and payable as though any prepaid or repaid portion of the Term Loans were voluntarily prepaid as of such date and shall constitute part of the Obligations secured by the Collateral. Any Prepayment Premium shall also be automatically and immediately due and payable if the Term Loans are satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by any other means. EACH OBLIGOR HEREBY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR OTHER LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH EVENTS. The

Borrower and the other Obligors expressly agree (to the fullest extent it and they may lawfully do so) that with respect to any Prepayment Premium payable under the terms of this Agreement: (i) such Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business parties, ably represented by counsel; (ii) such Prepayment Premium shall be payable notwithstanding the then-prevailing market rates at the time payment is made; (iii) there has been a course of conduct between the Lenders and the Obligors giving specific consideration in this transaction for such agreement to pay such Prepayment Premium; and (iv) the Obligors shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Obligors expressly acknowledge that their agreement to pay such Prepayment Premium as herein described is a material inducement to the Lenders to provide the Commitments and to make the Term Loans.

ARTICLE 4
PAYMENTS, ETC.

Section 4.01. Payments.

(a) *Payments Generally.* Each payment of principal, interest and other amounts to be made by the Obligors under this Agreement or any other Loan Document shall be made in Dollars, in immediately available funds, without deduction, set off or counterclaim, to the deposit account of the Administrative Agent specified to the Borrower from time to time, not later than 3:00 p.m. (New York City time) on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day).

(b) *Application of Payments Prior to a Default.* Prior to the occurrence of a Default, each payment under this Agreement or any other Loan Document shall be applied in the following order of priority, with proceeds being applied to a succeeding level of priority only if amounts owing pursuant to the immediately preceding level of priority have been paid in full in cash:

(i) *first*, in reduction of the Borrower's obligation to pay any unpaid interest and any fees then due and owing including, without limitation, any Prepayment Premium, if applicable; and

(ii) *second*, to the payment of unpaid principal of the Term Loans to the Lenders in accordance with each Lender's Proportionate Share.

(c) *Application of Payments Following a Default.* Following the occurrence and during the continuance of an Event of Default, each payment under this Agreement or any other Loan Document shall be applied in the following order of priority, with proceeds being applied to a succeeding level of priority only if amounts owing pursuant to the immediately preceding level of priority have been paid in full in cash:

- (i) *first*, to the payment of any unpaid costs and expenses referred to in Section 13.03(a) then due and owing;
- (ii) *second*, in reduction of the Borrower's obligation to pay any unpaid interest and any fees then due and owing including, without limitation, (A) interest payable at the Default Rate and (B) any Prepayment Premium, if applicable;
- (iii) *third*, to the payment of unpaid principal of the Term Loans to the Lenders in accordance with each Lender's Proportionate Share;
- (iv) *fourth*, in reduction of the Borrower's obligation to pay any Claims or Losses referred to in Section 13.03(b) then due and owing;
- (v) *fifth*, in reduction of any other Obligation then due and owing; and
- (vi) *sixth*, to the Borrower or such other Persons as may lawfully be entitled to or directed by the Borrower to receive the remainder.

Unless otherwise directed by the Majority Lenders, all payments of principal, interest and fees under this Agreement and the other Loan Documents shall be made by the Obligors to the Lenders pro rata in accordance with the Lenders' respective Proportionate Shares of such payments.

(d) *Non-Business Days*. If the due date of any payment under this Agreement (whether in respect of principal, interest, fees, costs or otherwise) would otherwise fall on a day that is not a Business Day, such date shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension.

Section 4.02. Computations. All computations of interest and fees hereunder shall be computed on the basis of a year of 360 days and actual days elapsed during the period for which payable.

Section 4.03. Notices. Each notice of optional prepayment shall be effective only if received by the Lenders not later than 3:00 p.m. (New York City time) on the date three (3) Business Days prior to the date of prepayment. Each notice of optional prepayment shall specify the amount to be prepaid and the date of prepayment.

Section 4.04. Set-Off.

(a) *Set-Off Generally*. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent, the Lenders and each of their respective Affiliates are hereby authorized at any time and from time to time, to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing

by the Lenders or such Affiliates to or for the credit or the account of any Obligor against any and all of the Obligations, whether or not the Lenders shall have made any demand and although such Obligations may be unmatured. The Lenders agree promptly to notify the Borrower after any such set-off and application, *provided* that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lenders and their respective Affiliates under this Section 4.04 are in addition to other rights and remedies (including other rights of set-off) that the Lenders and their respective Affiliates may have.

(b) *Exercise of Rights Not Required.* Nothing contained herein shall require the Administrative Agent, the Lenders or any of their respective Affiliates to exercise any such right or shall affect the right of such Persons to exercise, and retain the benefits of exercising, any such right with respect to any other Indebtedness or obligation of any Obligor.

ARTICLE 5

YIELD PROTECTION, ETC.

Section 5.01. Additional Costs.

(a) *Change in Requirements of Law Generally.* If, on or after the date hereof, the adoption of any Requirement of Law, or any change in any Requirement of Law, or any change in the interpretation or administration thereof by any court or other Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its lending office) with any request or directive (whether or not having the force of law) of any such Governmental Authority, shall impose, modify or deem applicable any reserve (including any such requirement imposed by the Board of Governors of the Federal Reserve System), special deposit, contribution, insurance assessment or similar requirement, in each case that becomes effective after the date hereof, against assets of, deposits with or for the account of, or credit extended by, a Lender (or its lending office) or shall impose on a Lender (or its lending office) any other condition affecting the Term Loans or the Commitments, not as a result of any action or inaction on the part of such Lender, and the result of any of the foregoing is to increase the cost to any Lender of making or maintaining its portion of the Term Loans, or to reduce the amount of any sum received or receivable by any Lender under this Agreement or any other Loan Document, by an amount reasonably deemed by such Lender in good faith to be material (other than (i) Indemnified Taxes, (ii) Excluded Taxes and (iii) Connection Income Taxes), then Obligors shall promptly pay to such Lender on demand such additional amount or amounts as will compensate such Lender for such increased cost or reduction with respect to this Agreement or any Term Loans funded hereunder (solely to the extent such request is consistent with the treatment of similarly situated customers of such Lender under agreements having provisions similar to this Section 5.01). Notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for

International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to constitute a change in Requirements of Law for all purposes of this Section 5.01, regardless of the date enacted, adopted or issued.

(b) *Change in Capital Requirements.* If a Lender shall have determined that, on or after the date hereof, the adoption of any Requirement of Law regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or any request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, in each case that becomes effective after the date hereof, has or would have the effect of reducing the rate of return on capital of a Lender (or its parent) as a consequence of a Lender's obligations hereunder or the Term Loans to a level below that which a Lender (or its parent) could have achieved but for such adoption, change, request or directive by an amount reasonably deemed by it to be material, then Obligors shall promptly pay to such Lender on demand such additional amount or amounts as will compensate such Lender (or its parent) for such reduction (solely to the extent such request is consistent with the treatment of similarly situated customers of such Lender under agreements having provisions similar to this Section 5.01).

(c) *Notification by Lender.* The Lenders will promptly notify the Borrower of any event of which it has knowledge, occurring after the date hereof, which will entitle a Lender to compensation pursuant to this Section 5.01. Before giving any such notice pursuant to this Section 5.01(c) such Lender shall designate a different lending office if such designation (i) will, in the reasonable judgment of such Lender, avoid the need for, or reduce the amount of, such compensation and (ii) will not, in the reasonable judgment of such Lender, be materially disadvantageous to such Lender. A certificate of the Lender claiming compensation under this Section 5.01, setting forth the amount or amounts to be paid to it hereunder, shall be conclusive and binding on Obligors in the absence of manifest error. The Obligors shall pay such Lender the amount shown on any such certificate within ten (10) Business Days after receipt thereof.

Section 5.02. Illegality. Notwithstanding any other provision of this Agreement, in the event that on or after the date hereof the adoption of or any change in any Requirement of Law or in the interpretation or application thereof by any competent Governmental Authority shall make it unlawful for a Lender or its lending office to make or maintain the Term Loans (and, in the opinion of such Lender, the designation of a different lending office would either not avoid such unlawfulness or would be disadvantageous to such Lender), then such Lender shall promptly notify the Borrower thereof following which (a) the Lender's Commitment shall be suspended until such time as such Lender may again make and maintain the Term Loans hereunder and (b) if such Requirement of Law shall so mandate, the Term Loans shall be prepaid, by Obligors on or before such date as shall be mandated by such Requirement of Law in an amount equal to the Redemption Price applicable on the date of such prepayment in accordance with Section 3.03(a).

Section 5.03. Taxes.

(a) *Payments Free of Taxes.* Any and all payments by or on account of any Obligation shall be made without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of the Administrative Agent or any applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by an Obligor, then such Obligor shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by such Obligor shall be increased as necessary so that after such deduction or withholding for Indemnified Taxes has been made (including such deductions and withholdings for Indemnified Taxes applicable to additional sums payable under this Section 5.03) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding for Indemnified Taxes been made. For purposes of this Section 5.03, the term “applicable Law” includes FATCA.

(b) *Payment of Other Taxes by the Obligors.* The Obligors shall timely pay to the relevant Governmental Authority in accordance with applicable Law, or at the option of the Administrative Agent, timely reimburse it for, Other Taxes.

(c) *Evidence of Payments.* As soon as practicable after any payment of Taxes by Obligors to a Governmental Authority, as a withholding Tax pursuant to this Section 5.03, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, or a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) *Indemnification.* Obligors shall reimburse and indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.03) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto (including, but not limited to, any costs arising from a dispute with the relevant Government Authority in respect of such Indemnified Taxes), whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) *Indemnification by the Lenders.* Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Obligors have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Obligors to do so), and (ii) any Taxes attributable to such Lender, in each

case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) *Status of Lenders.*

(i) Any Lender that is entitled to an exemption from, or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or as reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.03(f)(ii)(A), (B) or (D)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), duly completed, valid, executed copies of IRS Form W-9 (or successor form) certifying that such Lender is exempt from U.S. Federal backup withholding Tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the Recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement

(and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income Tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, duly completed, valid executed copies of IRS Form W-8BEN (or successor form) or IRS Form W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “interest” article of such Tax treaty and (y) with respect to any other applicable payments under any Loan Document, duly completed, valid, executed originals of IRS Form W-8BEN (or successor form) or IRS Form W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “business profits” or “other income” article of such Tax treaty;

(2) duly completed, valid, executed copies of IRS Form W-8ECI (or successor form);

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit D to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “*U.S. Tax Compliance Certificate*”) and (y) executed copies of IRS Form W-8BEN (or successor form) or IRS Form W-8BEN-E (or successor form); or

(4) to the extent a Foreign Lender is not the beneficial owner, duly completed, valid, executed copies of IRS Form W-8IMY (or successor form), accompanied by IRS Form W-8ECI (or successor form), IRS Form W-8BEN (or successor form), IRS Form W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate, IRS Form W-9 (or successor form), and/or other certification documents from each beneficial owner, as applicable; *provided* that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a

U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the Recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower the Administrative Agent to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Recipient agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall promptly update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) *Treatment of Certain Refunds.* If any party to this Agreement determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.03 (including by the payment of additional amounts pursuant to this Section 5.03), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.03 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the written request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (plus

any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 5.03(g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.03(g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section 5.03(g) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) *Mitigation Obligations.* If Obligors are required to pay any Indemnified Taxes or additional amounts to any Lender or to any Governmental Authority for the account of any Lender pursuant to Section 5.01 or this Section 5.03, then such Lender shall (at the request of the Borrower) use commercially reasonable efforts to designate a different lending office for funding or booking its Term Loans hereunder or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates if, in the sole reasonable judgment of such Lender, such designation or assignment and delegation would (i) eliminate or reduce amounts payable pursuant to Section 5.01 or this Section 5.03, as the case may be, in the future, (ii) not subject such Lender to any unreimbursed cost or expense and (iii) not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment and delegation.

(i) *Survival.* Each party's obligations under this Article 5 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations under any Loan Document.

Section 5.04. Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to this Article 5 shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Obligors shall not be required to compensate a Lender pursuant to this Article 5 for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender notifies the Borrower of the change in Law giving rise to such increased costs or reductions, and of such Lender's intention to claim compensation therefor (except that, if the change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

ARTICLE 6
CONDITIONS PRECEDENT

Section 6.01. Conditions to Tranche A Term Loan; Closing Date. The obligation of each Lender to make the Tranche A Term Loan and the effectiveness of this Agreement and the Loan Documents on the Closing Date shall not become effective until the following conditions precedent shall have been reasonably satisfied or waived in writing by the Administrative Agent (which satisfaction or waiver may be made simultaneously with the making of the Tranche A Term Loan hereunder):

(a) *Organization and Capitalization.* The organizational structure and pro-forma capitalization of the Obligors, after giving effect to the Transactions, as set forth on Schedule 7.20 shall be reasonably satisfactory to the Administrative Agent.

(b) *Terms of Material Agreements.* The Administrative Agent shall be satisfied in its sole discretion with the terms and conditions of all of the Obligors' Material Agreements, including without limitation, the Material Agreements that are directly or indirectly associated with manufacturing, distribution and payment of royalties by any Obligor.

(c) *No Law Restraining Transactions.* No applicable Law or regulation shall restrain, prevent or, in the reasonable judgment of the Administrative Agent, impose materially adverse conditions upon the Transactions.

(d) *Lien Searches.* The Administrative Agent shall be reasonably satisfied with Lien searches regarding the Obligors made prior to the Closing Date.

(e) *Documentary Deliveries.* The Administrative Agent shall have received the following documents, each of which shall be in form and substance reasonably satisfactory to the Administrative Agent:

(i) *Agreement.* This Agreement duly executed and delivered by the Obligors and each of the other parties hereto.

(ii) *Security Documents.*

(A) The Security Documents, including, without limitation, the Security Agreement, each Short-Form IP Security Agreement, and financing statements, each in form and substance reasonably satisfactory to the Administrative Agent and duly executed and delivered by each of the Obligors and the other parties thereto.

(B) The Collateral Questionnaire, duly executed and delivered by a Responsible Officer of the Borrower, substantially in the form of

Exhibit I hereto and otherwise in form and substance reasonably satisfactory to the Administrative Agent.

(C) Without limitation, all other documents and instruments reasonably required to perfect the Administrative Agent's Lien on, and security interest in, the Collateral required to be delivered on or prior to the Closing Date shall have been duly executed and delivered and be in proper form for filing, and shall create in favor of the Administrative Agent, a perfected Lien on, and security interest in, the Collateral, subject to no Liens other than Permitted Liens.

(iii) *Notes.* Any Notes requested in accordance with Section 2.04.

(iv) *Letter Agreement.* The Letter Agreement duly executed and delivered by the Borrower, the Lenders and the Administrative Agent.

(v) *Approvals.* The Borrower shall have obtained all material third-party consents and approvals, necessary in connection with the execution, delivery and performance by the Obligor of the Loan Documents and the Transactions.

(vi) *Organizational Documents.* (A) Certified copies of the Organizational Documents (as amended or restated to the reasonable satisfaction of the Administrative Agent, if required by the Administrative Agent in connection with the Liens created pursuant to the Security Documents) of each Obligor and of resolutions of the Board (or similar governing body) of each Obligor approving and authorizing the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party, certified as of the Closing Date by a Responsible Officer of such Obligor as being in full force and effect without modification or amendment; and (B) a good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Obligor's jurisdiction of incorporation and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date.

(vii) *Incumbency Certificate.* A certificate of each Obligor as to the authority, incumbency and specimen signatures of the persons who have executed the Loan Documents and any other documents in connection herewith on behalf of the Obligors.

(viii) *Officer's Certificate.* A certificate, in form and substance reasonably satisfactory to the Administrative Agent, dated as of the Closing Date and signed by a Responsible Officer of each Obligor, confirming compliance with the conditions set forth in this Section 6.01.

(ix) *Opinion of Counsel.* A customary opinion, dated as of the Closing Date, of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., counsel to each Obligor in form reasonably acceptable to the Administrative Agent and its counsel.

(x) *Evidence of Insurance.* Certificates from each Obligor's insurance broker or other evidence reasonably satisfactory to the Administrative Agent that all insurance required to be maintained pursuant to Section 8.05 is in full force and effect.

(xi) *Borrowing Notice.* The Administrative Agent shall have received a Borrowing Notice in accordance with Section 2.01(a)(ii) duly executed and delivered by a Responsible Officer of the Borrower, in form and substance reasonably satisfactory to the Administrative Agent.

(xii) *Warrant Certificate.* The Administrative Agent shall have received the executed Warrant Certificate, dated as of the Closing Date.

(f) *Due Diligence.* The Administrative Agent shall have received and be reasonably satisfied with all due diligence regarding the Obligors (including without limitation historical financial statements, Projections, technical, operational, legal, Intellectual Property, commercial market forecasts, clinical and regulatory assessments, supply chain, securities, labor, Tax, litigation, environmental, reimbursement and regulatory authority matters) in its sole discretion.

(g) *Indebtedness.* As of the Closing Date, after giving effect to the Transactions, no Obligor shall have any Indebtedness other than the Obligations and any Indebtedness specified on Schedule 9.01(b). All commitments and obligations in respect of the Existing Credit Documents shall be terminated (other than unasserted contingent liabilities), all guarantees (if any) thereof discharged and released and all security therefor (if any) released, together with all fees and other amounts owing thereon, or documentation in form and substance reasonably satisfactory to the Administrative Agent to effect such release upon such repayment and termination shall have been delivered to the Administrative Agent.

(h) *Closing Fees, Expenses, Etc.* The Lenders and their Affiliates shall have received for their own account, the Closing Fee and all fees, costs and expenses due and payable pursuant to Section 13.03 after deducting therefrom the Expense Deposit (which Closing Fee and such fees, costs and expenses may be paid out of the proceeds of the Tranche A Term Loan advanced by the Lenders on the Closing Date).

(i) *Representations and Warranties.* The representations and warranties of the Obligors contained in Article 7 or any other Loan Document shall be true and correct in all material respects on and as of the Closing Date; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect"

or similar language shall be true and correct (after giving effect to any qualification therein) in all respects.

(j) *No Material Adverse Change*. No Material Adverse Change shall have occurred since December 31, 2023.

(k) *No Default*. No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds therefrom.

(l) *Miscellaneous*. The Administrative Agent and each Lender shall have received such other opinions, instruments, certificates and documents as the Administrative Agent or such Lender shall have reasonably requested in writing with prior notice to the Borrower.

Section 6.02. Conditions to Tranche B Term Loan; Tranche B Term Loan Borrowing Date. The obligation of each Lender to make the Tranche B Term Loan on the Tranche B Term Loan Borrowing Date shall not become effective until the following conditions precedent shall have been satisfied or waived in writing by the Administrative Agent (which satisfaction or waiver may be made simultaneously with the making of the Tranche B Term Loan hereunder):

(a) *Tranche B Term Loan Commitment Termination Date*. The Tranche B Term Loan Commitment Termination Date shall not have occurred.

(b) *Borrowing Notice*. The Administrative Agent shall have received a Borrowing Notice in accordance with Section 2.01(b)(ii) requesting the Borrowing of the Tranche B Term Loan duly executed by a Responsible Officer of the Borrower and the Borrower's updated Schedules to this Agreement (if any), in form and substance reasonably satisfactory to the Administrative Agent.

(c) *Representations and Warranties*. The representations and warranties of the Obligors contained in Article 7 or any other Loan Document shall be true and correct in all material respects on and as of the Tranche B Term Loan Borrowing Date; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects.

(d) *No Default*. No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds therefrom.

(e) *Officer's Certificate*. A certificate, dated as of the Tranche B Borrowing Date and signed by a Responsible Officer of the Borrower, confirming compliance with the conditions set forth in this Section 6.02.

(f) *Milestone*. The Borrower shall have delivered to the Administrative Agent evidence reasonably satisfactory to the Administrative Agent that the Borrower has achieved Net Revenue of at least [***] for any twelve (12) consecutive month period prior to the Tranche B Borrowing Date.

(g) *Expenses, Etc.* The Lenders and their Affiliates shall have received for their own account, all fees, costs and expenses due and payable pursuant to Section 13.03 (which may be paid out of the proceeds of the Tranche B Term Loan advanced by the Lenders on the Tranche B Term Loan Borrowing Date).

(h) *Miscellaneous*. The Administrative Agent and each Lender shall have received such other opinions, instruments, certificates and documents as the Administrative Agent or such Lender shall have reasonably requested in writing with prior notice to the Borrower.

Section 6.03. Conditions to Tranche C Term Loan; Tranche C Term Loan Borrowing Date. The obligation of each Lender to make the Tranche C Term Loan on the Tranche C Term Loan Borrowing Date shall not become effective until the following conditions precedent shall have been satisfied or waived in writing by the Administrative Agent (which satisfaction or waiver may be made simultaneously with the making of the Tranche C Term Loan hereunder):

(a) *Tranche C Term Loan Availability Period*. The Tranche C Term Loan Availability Period shall have occurred and not expired.

(b) *Borrowing Notice*. The Administrative Agent shall have received a Borrowing Notice in accordance with Section 2.01(c)(ii) requesting the Borrowing of the Tranche C Term Loan duly executed by a Responsible Officer of the Borrower and the Borrower's updated Schedules to this Agreement (if any), in form and substance reasonably satisfactory to the Administrative Agent.

(c) *Representations and Warranties*. The representations and warranties of the Obligors contained in Article 7 or any other Loan Document shall be true and correct in all material respects on and as of the Tranche C Term Loan Borrowing Date; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects.

(d) *No Default*. No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds therefrom.

(e) *Officer's Certificate*. A certificate, dated as of the Tranche C Borrowing Date and signed by a Responsible Officer of the Borrower, confirming compliance with the conditions set forth in this Section 6.03.

(f) *Milestone*. The Borrower shall have delivered to the Administrative Agent evidence reasonably satisfactory to the Administrative Agent that the Borrower has achieved Net Revenue of at least [***] for any twelve (12) consecutive month period prior to the Tranche C Borrowing Date.

(g) *Expenses, Etc*. The Lenders and their Affiliates shall have received for their own account, all fees, costs and expenses due and payable pursuant to Section 13.03 (which may be paid out of the proceeds of the Tranche C Term Loan advanced by the Lenders on the Tranche C Term Loan Borrowing Date).

(h) *Miscellaneous*. The Administrative Agent and each Lender shall have received such other opinions, instruments, certificates and documents as the Administrative Agent or such Lender shall have reasonably requested in writing with prior notice to the Borrower.

Section 6.04. Conditions to Tranche D Term Loan; Tranche D Term Loan Borrowing Date. The Tranche D Term Loan shall not be advanced until the following conditions precedent shall have been reasonably satisfied or waived in writing by the Lenders (which satisfaction or waiver may be made simultaneously with the making of the Tranche D Term Loan hereunder):

(a) *Tranche D Term Loan Expiration Date*. The Tranche D Term Loan Expiration Date shall not have occurred.

(b) *Borrowing Notice*. The Administrative Agent shall have received the Tranche D Term Loan Borrowing Request in accordance with Section 2.01(d)(ii) requesting the Borrowing of the Tranche D Term Loan duly executed by a Responsible Officer of the Borrower and the Borrower's updated Schedules to this Agreement (if any), in form and substance reasonably satisfactory to the Administrative Agent.

(c) *Representations and Warranties*. The representations and warranties of the Obligors contained in Article 7 or any other Loan Document shall be true and correct in all material respects on and as of the Tranche D Term Loan Borrowing Date; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects.

(d) *No Default*. No Default or Event of Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds therefrom.

(e) *Officer's Certificate*. A certificate, dated as of the Tranche D Borrowing Date and signed by a Responsible Officer of the Borrower, confirming compliance with the conditions set forth in this Section 6.04.

(f) *Expenses, Etc.* The Lenders and their Affiliates shall have received for their own account, all fees, costs and expenses due and payable pursuant to Section 13.03 (which may be paid out of the proceeds of the Tranche D Term Loan advanced by the Lenders on the Tranche D Term Loan Borrowing Date).

(g) *Miscellaneous.* The Administrative Agent and each Lender shall have received such other opinions, instruments, certificates and documents as the Administrative Agent or such Lender shall have reasonably requested in writing with prior notice to the Borrower.

The borrowing of the Term Loans shall constitute a certification by the Borrower to the effect that the conditions set forth in Sections 6.01, 6.02, 6.03 and 6.04 as applicable, have been fulfilled as of the Closing Date, the Tranche B Term Loan Borrowing Date, the Tranche C Term Loan Borrowing Date, or the Tranche D Term Loan Borrowing Date, as applicable.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders to enter into this Agreement and to extend the Term Loans hereunder, each Obligor represents and warrants to the Lenders and the Administrative Agent, on the Closing Date, on the Tranche B Term Loan Borrowing Date, on the Tranche C Term Loan Borrowing Date and on the Tranche D Term Loan Borrowing Date as applicable, that the following statements are true and correct:

Section 7.01. Power and Authority. Each Obligor and each of its Subsidiaries (a) is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (b) has all requisite corporate (or equivalent) power, and has all material governmental licenses, authorizations, consents and approvals necessary to own its assets and carry on its business as now being or as proposed to be conducted except to the extent that failure to have the same would not reasonably be expected to have a Material Adverse Effect, (c) is qualified to do business and is in good standing in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary except where failure to so qualify would not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect, and (d) has full power, authority and legal right to make and perform each of the Loan Documents to which it is a party and, in the case of the Borrower, to borrow the Term Loans hereunder.

Section 7.02. Authorization; Enforceability. The Transactions are within each Obligor's corporate (or equivalent) powers and have been duly authorized by all necessary corporate (or equivalent) action and, if required, by all necessary shareholder or other equity holder action. The Loan Documents have been duly executed and delivered by each Obligor party thereto and constitutes, and each of the other Loan Documents to which it is a party when executed and delivered by such Obligor will constitute, a legal, valid and binding obligation of such Obligor, enforceable against each Obligor in accordance with its terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or similar Laws of general applicability affecting the enforcement of creditors' rights and (b) the application of general

principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 7.03. Governmental and Other Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any other Person, except for (i) such as have been obtained or made and are in full force and effect and (ii) filings and recordings in respect of perfecting or recording the Liens created pursuant to the Security Documents, (b) will not violate any applicable Requirement of Law of any Obligor or any applicable order of any Governmental Authority, in each case, other than any such violations that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (c) will not violate any applicable Organizational Documents of any Obligor, (d) will not violate in any material respect or result in a default under any Material Agreement, or give rise to a right thereunder to require any material payment to be made by any such Person, and (e) will not result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of any Obligor or any of its Subsidiaries.

Section 7.04. Financial Statements; Projections; Material Adverse Change.

(a) *Financial Statements.* The Obligors have heretofore furnished to the Administrative Agent certain financial statements as provided for in Section 8.01. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Obligors as of such dates and for such periods substantially in accordance with GAAP, subject to quarterly or year-end adjustments and the absence of footnotes. No Obligor has any material contingent liabilities or liabilities for taxes, long-term lease or unusual forward or long-term commitments not disclosed in the aforementioned financial statements.

(b) *Projections.* On and as of the Closing Date, the projections of the Obligors (collectively, the “*Projections*”) are based on good faith estimates and assumptions made by the management of the Obligors; *provided*, the Projections and all other forward looking information are not to be viewed as facts and that actual results during the period or periods covered by the Projections may differ from such Projections and that the differences may be material.

(c) *No Material Adverse Change.* Since December 31, 2023 no event, circumstance or change has occurred that has caused or evidences, either in individually or in the aggregate, a Material Adverse Change.

Section 7.05. Properties.

(a) *Property Generally.* Each Obligor and each of its Subsidiaries has good and marketable fee simple title to, or valid leasehold or license interests in, all its real and personal Property material to its business, including all Product Assets, subject only to Permitted Liens and except as would not reasonably be expected to materially interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) *Intellectual Property*.

(i) Schedule 7.05(b) lists, with respect to each Obligor, all United States and foreign registrations of and applications for Patents, Trademarks, Copyrights, and Industrial Designs that are Obligor Intellectual Property, including the applicable jurisdiction, registration or application number and date, as applicable thereto, and a designation as to whether it is licensed or owned by an Obligor.

(ii) Each Obligor (A) owns or possesses all legal and beneficial rights, title and interest in and to the Obligor Intellectual Property designated on Schedule 7.05(b) as being owned by such Obligor and (B) has the right to use the Obligor Intellectual Property licensed to such Obligor, in each case with good and marketable title, free and clear of any Liens or Claims of any kind, other than Permitted Liens.

(iii) To each Obligor's Knowledge, the Obligor Intellectual Property does not violate any license or infringe any valid and enforceable Intellectual Property right of another Person in any material respect.

(iv) Other than with respect to the Material Agreements, or as permitted by this Agreement, the Obligors have not assigned or otherwise transferred ownership of, or agreed to assign or otherwise transfer ownership of, any Obligor Intellectual Property, in whole or in part, to any Person who is not an Obligor.

(v) Other than as set forth on Schedule 7.05(b), the Obligors have not received any written communications, nor is there any pending or, to each Obligor's Knowledge, threatened action in writing, suit, proceeding or Claim in writing by another, alleging that any of the Obligors has violated, infringed, diluted or misappropriated any Intellectual Property of another.

(vi) There is no pending or, to any Obligor's Knowledge, threatened action in writing, suit, proceeding or Claim in writing by another: (A) challenging an Obligor's rights in or to any Obligor Intellectual Property; or (B) challenging the validity, enforceability or scope of any Obligor Intellectual Property.

(vii) Each Obligor has taken commercially reasonable precautions to protect the secrecy, confidentiality and value of the Obligor Intellectual Property (including without limitation, by requiring that all relevant current and former employees of the Obligors execute written confidentiality and Invention assignment Contracts).

(viii) Each Obligor has complied with the terms of each Material Agreement pursuant to which Intellectual Property has been licensed to the Obligors (which material terms shall include, but not be limited to, pricing and duration of the agreement).

(ix) All maintenance fees, annuities, and the like due or payable on the Patents have been timely paid or the failure to so pay was the result of an intentional decision by the applicable Obligor, which would not reasonably be expected to result in a Material Adverse Change. All documents and instruments necessary to register or apply for or renew registration of all Patents, Trademarks and Copyrights have been validly executed, delivered and filed in a timely manner with the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

(x) To each Obligor's Knowledge, (A) there are no material defects in any of the Patents and (B) no such Patents have ever been finally adjudicated to be invalid, unpatentable or unenforceable for any reason in any administrative, arbitration, judicial or other proceeding.

(xi) To each Obligor's Knowledge, no Obligor has received any written notice asserting that the Patents are invalid, unpatentable or unenforceable in any jurisdiction in which the Obligors operate and, to each Obligor's Knowledge, no Obligor has engaged in any conduct, or omitted to perform any necessary act, the result of which would invalidate or render unpatentable or unenforceable any such Patent in any jurisdiction in which the Obligors operate.

(xii) Each employee has signed a written agreement assigning to the applicable Obligor all Intellectual Property rights that are related to such Obligor's business as now conducted and as presently proposed to be conducted and confidentiality provisions protecting trade secrets and confidentiality information of the Obligors.

(xiii) To the Knowledge of each Obligor, no third party is infringing upon or misappropriating, or violating any license or agreement with such Obligor relating to any Intellectual Property.

Section 7.06. No Actions or Proceedings.

(a) *Litigation.* To the Knowledge of the Obligors, except for standard patent prosecution before each jurisdiction's patent office, there is no litigation, investigation or enforcement proceeding pending or threatened in writing with respect to any Obligor or its Subsidiaries by or before any Governmental Authority or arbitrator (i) that either individually or in the aggregate would reasonably be expected to have a Material Adverse Effect or (ii) that involves this Agreement or the Transactions.

(b) *Environmental Matters.* The operations and the real Property of the Obligors and their Subsidiaries comply with all applicable Environmental Laws, except to the extent the failure to so comply, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To each Obligor's Knowledge, there have been no conditions, occurrences or release of Hazardous Materials which would reasonably be expected to have a Material Adverse Effect.

(c) *Labor Matters.* No Obligor nor any of its Subsidiaries has engaged in unfair labor practices and there are no pending or, to any Obligor's Knowledge, threatened in writing labor actions, disputes, grievance or arbitration proceedings involving the employees of any Obligor or any of its Subsidiaries, in each case that would reasonably be expected to have a Material Adverse Effect. There is no material strike or work stoppage in existence or threatened in writing against any Obligor or any of its Subsidiaries and to the Knowledge of such Obligor, no union organization activity is taking place.

Section 7.07. Compliance with Laws and Agreements.

(a) Each Obligor and each of its Subsidiaries are in compliance with all Requirements of Law (including Health Care Laws and Environmental Laws) and all Contracts binding upon it or its Property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(b) Without limiting the generality of the foregoing:

(i) To each Obligor's Knowledge, any financial relationships between or among any Obligor or any Subsidiary thereof, on the one hand, and any Person who is in a position to refer patients or other health care business to any Obligor or any Subsidiary thereof (collectively a "Referral Source"), on the other hand, (A) comply in all material respects with all applicable Health Care Laws; (B) reflect fair market value, have commercially reasonable terms and were negotiated at arm's length; and (C) do not obligate the Referral Source to purchase, use, recommend or arrange for the use of any products or services of any Obligor or any Subsidiary thereof in any manner that could reasonably be expected to constitute a violation of Health Care Law. No Obligor, nor any Subsidiary thereof, directly or indirectly, has guaranteed a loan, made a payment toward a loan or otherwise subsidized a loan for any Referral Source including, without limitation, any loans related to financing the Referral Source's ownership, investment or financial interest in any Obligor or any such Subsidiary.

(ii) All Products have been developed, tested, manufactured, distributed, marketed and sold in compliance in all material respects with all applicable Regulated Product Laws.

(iii) [Reserved].

(iv) Each Obligor and each Subsidiary thereof holds all Third-Party Payor Authorizations in full force and effect that are necessary to participate in and be reimbursed by all Third-Party Payor Programs in which it participates, if any, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. To the Knowledge of any Obligor, there is no investigation, audit, claim review, or other action pending or threatened in writing, which could result in a suspension, revocation, termination, restriction, limitation, modification or nonrenewal of any Third-Party

Payor Authorization or in the exclusion of an Obligor from participation in any Third-Party Payor Program.

(v) No Obligor nor any Subsidiary thereof, nor any owner, officer, director, partner, agent or managing employee or Person with a “direct or indirect ownership interest” (as that phrase is defined in 42 C.F.R. § 420.201) in any Obligor has been (i) excluded from any Federal Health Care Program, (ii) “suspended” or “debarred” from selling products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation, relating to debarment and suspension applicable to federal government agencies generally (42 C.F.R. Subpart 9.4), (iii) debarred, disqualified, suspended or excluded from participation in any Third-Party Payor Program or is listed on the General Services Administration list of excluded parties, nor, to the Knowledge of the Obligors, is any such debarment, disqualification, suspension or exclusion threatened or pending, or (iv) made a party to any other action by any Governmental Authority that may prohibit it from selling the Products or providing related services, to any governmental or other purchaser pursuant to any federal, state or local laws or regulations.

(vi) No Obligor nor any Subsidiary thereof is subject to any pending audit, claim review, investigation, proceeding, or other action (in each case, whether civil, criminal, administrative or investigative) relating to any actual or alleged noncompliance with any applicable Health Care Law, which could result in, the repayment of any material monies received, or the imposition of any material penalties, from any Third-Party Payor Program or Governmental Authority. No Obligor nor any Subsidiary thereof, nor, to the Knowledge of any Obligor, any owner, officer, director, partner, agent or managing employee of any Obligor, is a party to or bound by any individual integrity agreement, corporate integrity agreement, corporate compliance agreement, deferred prosecution agreement, settlement agreement or other formal written agreement with any Governmental Authority concerning its compliance with any Health Care Law.

(vii) No Obligor nor any Subsidiary thereof has experienced or had an unauthorized use or disclosure of Protected Health Information (as defined in the HIPAA regulations) or privacy or security breach or other privacy or security incident within the meaning of HIPAA or other applicable consumer privacy and security laws that has affected more than five hundred (500) individuals. Each Obligor and each Subsidiary thereof has created and maintains written policies and procedures to protect the privacy of all patient protected health information in accordance with HIPAA and other applicable consumer privacy and security laws, and has implemented appropriate security procedures including, without limitation, administrative, physical and technical safeguards, designed to protect the confidentiality, integrity and availability of all electronic protected health information that it creates, receives, maintains or transmits. Each Obligor and each Subsidiary thereof has conducted any security risk assessments, risk analyses, and/or other supplemental assessments required by HIPAA or other applicable consumer privacy and security laws and remediated any deficiencies identified

thereby, if any. Each Obligor and each Subsidiary thereof has provided compliance training with respect to HIPAA to its “workforce” and, except where failure to do so would not reasonably be expected to have a Material Adverse Effect, has entered into a business associate agreement with each third party acting as a “business associate” or “subcontractor” thereto (as such terms are defined in HIPAA).

(viii) Each Obligor and Subsidiary thereof maintains and adheres to, in all material respects, a commercially reasonable compliance program designed to promote compliance with and to detect, prevent and address violations of all material Health Care Laws (a “*Health Care Compliance Program*”), developed in accordance with the Department of Health and Human Services Office of the Inspector General guidance. No Obligor nor any Subsidiary thereof is aware of any complaints from any employees, independent contractors, vendors, physicians, customers, patients or other persons that could reasonably be considered to indicate a violation of Health Care Laws which would be reasonably expected to result individually, or in the aggregate, in a Material Adverse Effect.

Section 7.08. Taxes. Each Obligor has timely filed or caused to be filed all federal income and other material Tax returns and reports required to have been filed and has paid or caused to be paid all federal income and other material Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and for which such Obligor has set aside on its books adequate reserves with respect thereto substantially in accordance with GAAP.

Section 7.09. Full Disclosure. Obligors have disclosed to the Lenders all Material Agreements to which any Obligor is party, and all other matters to its Knowledge, that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of the Obligors to the Lenders in connection with the negotiation of this Agreement and the other Loan Documents or delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of material fact or to the Obligors’ Knowledge omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided* that, with respect to projected financial information, Obligors represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time, and it being understood that such projected financial information and all other forward looking information are not to be viewed as facts and that actual results during the period or periods covered thereby may differ from such projected results and that the differences may be material.

Section 7.10. Regulation.

(a) *Investment Company Act.* No Obligor is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

(b) *Margin Stock.* No Obligor is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental

or ultimate, of buying or carrying Margin Stock and no part of the proceeds of the Term Loans will be used to buy or carry any Margin Stock in violation of Regulation T, U or X.

Section 7.11. Solvency. The Obligors, on a consolidated basis, are, and, immediately after giving effect to the Borrowings, the use of proceeds thereof, and the consummation of the Transactions, will be, Solvent.

Section 7.12. [Reserved].

Section 7.13. Indebtedness and Liens. Set forth on Schedule 9.01(b) is a complete and correct list of all Permitted Indebtedness of each Obligor described in Section 9.01(b) as of the date hereof. Set forth on Schedule 9.02(b) is a complete and correct list of all Permitted Liens described in Section 9.02(b) granted by an Obligor with respect to its respective Property and outstanding as of the date hereof.

Section 7.14. Material Agreements. Set forth on Schedule 7.14 (as such Schedule may be updated by the Borrower from time to time) is a complete and correct list of (a) each Material Agreement and (b) each Contract creating or evidencing any Material Indebtedness, together with a summary reference to the product or purpose of each such Material Agreement and such Contract, to which an Obligor is a party. Accurate and complete copies of each such Contract listed on such schedule have been made available to the Lenders. No Obligor is in default in any material respect under any such Material Agreement or such Contract creating or evidencing any Material Indebtedness listed on such schedule, and no Obligor has Knowledge of any default in any material respect by any counterparty to such Material Agreement or such Contract. Except as otherwise disclosed on Schedule 7.14 (as such Schedule may be updated by the Borrower from time to time), all material vendor purchase agreements and provider Contracts of the Obligors, and all Material Agreements including a grant of rights under any Intellectual Property to an Obligor, are in full force and effect without material modification from the form in which the same were disclosed to the Lenders.

Section 7.15. Restrictive Agreements. None of the Obligors is party to any Restrictive Agreement, except (a) those listed on Schedule 7.15 or otherwise permitted under Section 9.11, (b) restrictions and conditions imposed by Law or by the Loan Documents, (c) any stockholder agreement, investor rights agreement, charter, bylaws or other Organizational Documents of an Obligor and (d) limitations associated with Permitted Liens.

Section 7.16. Real Property. No Obligor nor any of its Subsidiaries owns or leases (as tenant thereof) any real Property on the date hereof, except as described on Schedule 7.16.

Section 7.17. Pension and Other Plans. Schedule 7.17 sets forth, as of the date hereof, a complete and correct list of, and that separately identifies, (a) all Title IV Plans, and (b) all Multiemployer Plans. Except as would not reasonably be expected to have a Material Adverse Effect, (i) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (ii) there are no existing or pending (or to the Knowledge of any Obligor or Subsidiary thereof, threatened) Claims (other than routine Claims for benefits in the

normal course), sanctions, actions, lawsuits or other proceedings or investigations involving any Benefit Plan, and (iii) no ERISA Event has occurred or is reasonably expected to occur.

Section 7.18. Collateral; Security Interest. Each Security Document is effective to create in favor of the Administrative Agent for the benefit of the Lenders a legal, valid and enforceable security interest in the Collateral subject thereto and each such security interest is perfected to the extent required by (and has the priority required by) the applicable Security Document, subject to Permitted Liens. The Security Documents collectively are effective to create in favor of the Administrative Agent for the benefit of the Lenders a legal, valid and enforceable security interest in the Collateral, which upon the filing of financing statements and other similar statements filed in the appropriate offices, such security interests are perfected security interests (subject only to Permitted Liens) to the extent that such perfection may be obtained by such filing.

Section 7.19. Regulatory Approvals.

(a) Each Obligor and each of its Subsidiaries holds either directly or through licensees and agents, all Regulatory Approvals and Permits necessary or required for each Obligor and its Subsidiaries to conduct all material Product Development and Commercialization Activities with respect to the Products.

(b) Set forth on Schedule 7.19(b) is a complete and accurate list as of the date hereof of all Regulatory Approvals and Permits referred to in clause (a) above, if any, setting forth (on a per Product basis, as applicable) the Obligor that holds such Regulatory Approval or Permit and identifying the Product related to such Regulatory Approval. All such Regulatory Approvals and Permits are (i) legally and beneficially owned exclusively by the Obligor identified on Schedule 7.19(b), free and clear of all Liens other than Permitted Liens, (ii) validly registered and on file with the applicable Regulatory Authority, in material compliance with all registration, filing and maintenance requirements (including any fee requirements) thereof, and (iii) in good standing, valid and enforceable with the applicable Regulatory Authorities.

(c) (i) All material regulatory filings required by any Regulatory Authority or in respect of all Regulatory Approvals and Permits referred to in clause (a) above have been made, and all such filings are complete with respect to the stage of development of the Product to which it applies and correct in all material respects and have complied in all material respects with all applicable Requirements of Law, (ii) all clinical trials and pre-clinical studies, if any, of investigational Products have been and are being conducted by each Obligor according to all applicable Requirements of Law in all material respects along with appropriate monitoring of clinical investigator trial sites for their compliance, and (iii) each Obligor has disclosed to the Lenders all such material regulatory filings and all material communications between representatives of each Obligor and any Regulatory Authority.

(d) Each Obligor and, to each Obligor's Knowledge, each of its agents are in compliance in all material respects with all Requirements of Law (including all Regulatory Approvals) of all applicable Governmental Authorities with respect to each Product and all

Product Development and Commercialization Activities related thereto. Each Obligor has and maintains in full force and effect all the necessary and requisite Regulatory Approvals for its Products.

(e) (i) No Obligor has received from any Regulatory Authority any notice of adverse findings with respect to any Product or any Product Development and Commercialization Activities related thereto, including any Form FDA 483 inspectional observations, notices of violations, warning letters, criminal proceeding notices under Section 305 of the FD&C Act, or any other similar communication from any Regulatory Authority, (ii) there have been no seizures conducted or, to each Obligor's Knowledge, threatened by any Regulatory Authority with respect to any Product, and no recalls, market withdrawals, field notifications, notifications of misbranding or adulteration or safety alerts conducted, requested or, to any Obligor's Knowledge, threatened by any Regulatory Authority with respect to any Product, and (iii) no Obligor has received any written notification that remains unresolved from the FDA or any other applicable Regulatory Authority alleging any noncompliance with applicable Requirements of Law with respect to any Product or any Product Development and Commercialization Activities related thereto.

(f) Neither any Obligor nor, to any Obligor's Knowledge, any officer, employee or agent thereof, has made an untrue statement of a material fact or fraudulent statements to any applicable Regulatory Authority, failed to disclose a material fact required to be disclosed to any applicable Regulatory Authority.

(g) No Obligor has received any written notice that any applicable Regulatory Authority has commenced or initiated, or, to the Knowledge of any such Obligor, threatened to commence or initiate, any action to withdraw any Regulatory Approval or requested the recall of any Products or commenced or initiated or, to the Knowledge of such Obligor, threatened to commence or initiate, any action to enjoin any Product Development and Commercialization Activities of such Obligor.

(h) The clinical, preclinical, safety and other studies and tests conducted by or on behalf of or sponsored by each Obligor, or in respect of which any Products or Product candidates under development have participated, were (and if still pending, are) being conducted materially in accordance with standard medical and scientific research procedures and all applicable Laws. No Obligor has received any notices or other correspondence from any applicable Regulatory Authority requiring the termination or suspension of any clinical, preclinical, safety or other studies or tests of any Product or Product candidate.

Section 7.20. Capitalization. All of the issued and outstanding securities of each Obligor have been duly authorized, are validly issued, fully paid, and non-assessable. As of the Closing Date and except as set forth on Schedule 7.20, there are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, or other Contracts or commitments that could require the Obligors to issue, sell, or otherwise cause to become outstanding any of their ownership interests. There are no outstanding or authorized stock

appreciation, phantom stock, profit participation, or similar rights with respect to the Obligors. There are no voting trusts, proxies, or other agreements or understandings with respect to the voting of the ownership interests of the Borrower. None of the Equity Interests in the Borrower have been mortgaged, assigned or pledged in favor of any Person, other than pursuant to the Security Agreement.

Section 7.21. Insurance. Each Obligor has obtained (and is maintaining), insurance for its assets (including the Collateral) and business as required under the Loan Documents.

Section 7.22. Certain Fees. Except as described on Schedule 7.22, no broker's or finder's fee will be payable in connection with the execution and delivery of this Agreement.

Section 7.23. Sanctions Laws. Obligors and, to the Knowledge of the Obligors, any director, officer or employee of an Obligor acting on behalf of the Obligors, are in compliance with the Sanctions Laws in all respects.

Section 7.24. Anti-Corruption Laws. No Obligor nor any of its Subsidiaries has, nor, to the Knowledge of any Responsible Officer of any Obligor, has any director, officer, agent or employee of any Obligor acting on behalf of such Obligor (a) taken any action, directly or indirectly, that would result in a violation by such Persons of the Anti-Corruption Laws, (b) made, offered to make, promised to make or authorized the payment or giving of, directly or indirectly, any Prohibited Payment or (c) been subject to any investigation by any Governmental Authority with regard to any actual or alleged Prohibited Payment.

Section 7.25. Anti-Terrorism Laws. The Obligors and their Subsidiaries (a) have taken reasonable measures to ensure compliance with applicable Economic Sanctions Laws and Anti-Terrorism Laws, (b) are not Designated Persons and (c) have not used any part of the proceeds from any advance on behalf of any Designated Person or has not used, directly by it or indirectly through any Subsidiary, such proceeds in connection with any investment in, or any transactions or dealings with, any Designated Person.

Section 7.26. Royalty and Other Payments. Except as set forth on Schedule 7.26, no Obligor, nor any of its Subsidiaries, is obligated to pay any material royalty, milestone payment, deferred payment or any other contingent payment in respect of any Product.

ARTICLE 8

AFFIRMATIVE COVENANTS AND FINANCIAL COVENANTS

Each Obligor covenants and agrees with the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than the Warrant Obligations and unasserted contingent liabilities) have been paid in full in cash:

(a) within forty-five (45) days after the end of each fiscal quarter, the consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter and the related consolidated statement of income, stockholders' equity and cash flows of the Borrower and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous fiscal year and the corresponding figures from the Financial Plan for the current fiscal year, all in reasonable detail together with (i) a certificate of a Responsible Officer of the Borrower stating that such financial statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as at such date and the results of operations of the Borrower and its Subsidiaries for the period ended on such date and have been prepared substantially in accordance with GAAP consistently applied, subject to changes resulting from normal quarterly or year-end adjustments and except for the absence of footnotes and (ii) a management's discussion and analysis of the financial condition and results of operations, including the Borrower's and its Subsidiaries' liquidity and capital resources; *provided* that, so long as the Borrower is a Publicly Reporting Company, the Borrower's filing of a Quarterly Report on Form 10-Q with the SEC shall be deemed to satisfy the requirements of this Section 8.01(a) on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto.

(b) within one hundred twenty (120) days after the end of each fiscal year, the consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year, and the related consolidated statement of income, shareholders' equity and cash flows of the Borrower and its Subsidiaries for such fiscal year, setting forth in each case in comparative form the corresponding figures for the previous fiscal year and the corresponding figures from the Financial Plan for the fiscal year covered by such financial statements, prepared substantially in accordance with GAAP consistently applied, all in reasonable detail accompanied by (i) a report and opinion thereon of BDO USA, P.C. or another firm of independent certified public accountants of recognized national standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception audit (other than solely with respect to, or resulting solely from the upcoming Stated Maturity Date occurring within one year from the time such report is delivered) or any qualification or exception as to the scope of such audit or related to the maturity of the Transactions and (ii) a management's discussion and analysis of the financial condition and results of operations, including the Obligor's liquidity and capital resources; *provided* that, so long as the Borrower is a Publicly Reporting Company, the Borrower's filing of an Annual Report on Form 10-K with the SEC shall be deemed to satisfy the requirements of this Section 8.01(b) on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto;

(c) within thirty (30) days after the end of each month, a Compliance Certificate of a Responsible Officer of the Borrower as of the end of the applicable accounting period

(which delivery may be by electronic communication including email and shall be deemed to be an original authentic counterpart thereof for all purposes) in the form of Exhibit E (a “*Compliance Certificate*”) confirming compliance with Section 8.15(a);

(d) within forty-five (45) days after the end of each fiscal quarter, a Compliance Certificate of a Responsible Officer of the Borrower as of the end of the applicable accounting period (which delivery may be by electronic communication including email and shall be deemed to be an original authentic counterpart thereof for all purposes) which, for purposes of clarification, shall (i) confirm the Obligors’ compliance with Section 8.11 and Section 8.15(b), (B) state the representations and warranties made by the Obligors in Article 7 are true in all material respects on and as of the date thereof; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects, (C) confirm that no Default or Event of Default is continuing (and if a Default or Event of Default has occurred and is continuing state the proposed actions that the Obligors intend to take in connection with such Default or Event of Default) and (D) provide a copy of any new Material Agreement;

(e) promptly, and in any event within five (5) Business Days after receipt thereof by an Obligor thereof, copies of each notice or other correspondence received from any securities regulator or exchange to the authority of which an Obligor is subject concerning any investigation or possible investigation or other inquiry by such agency;

(f) the information regarding insurance maintained by Obligors as and when required under Section 8.05;

(g) promptly following the Lenders’ written request at any time, proof of the Obligors’ compliance with Section 8.15(a), which may include statements showing the current balance of each account of the Obligors holding Unrestricted Cash necessary to establish compliance with Section 8.15(a);

(h) within ten (10) days of delivery, copies of all material periodic reports distributed by the Borrower to its shareholders generally; *provided* that (i) any such material may be redacted by the Borrower to exclude information relating to the Loan Documents or the Lenders and (ii) the Lenders shall not be entitled to receive statements, reports and notices relating to topics that (A) are subject to attorney-client privilege or (B) present a conflict of interest for the Lenders; *provided* that, so long as the Borrower is a Publicly Reporting Company, the Borrower’s filing of any such material with the SEC shall be deemed to satisfy the requirements of this Section 8.01(h) on the date on which such report is first available via the SEC’s EDGAR system or a successor system related thereto;

(i) a financial forecast for the Borrower and its Subsidiaries for each fiscal year, including forecasted balance sheets, statements of income and cash flows of the Borrower

and its Subsidiaries (the “*Financial Plan*”), all of which shall be prepared on a consolidated basis and delivered not later than March 31 of such fiscal year;

(j) within five (5) Business Days following any Lender’s written request, certification that such Obligor is not a passive foreign investment company (“*PFIC*”) within the meaning of Sections 1291 through 1297 of the Code, or, if such Obligor determines that it is a PFIC, such information as would allow the Lender to make a qualified electing fund election with respect to the Equity Interest of the Obligor;

(k) such other information respecting the operations, properties, business or financial condition of the Obligors (including with respect to the Collateral) as the Lenders may from time to time reasonably request in writing; and

(l) so long as the Borrower is a Publicly Reporting Company, the Borrower shall within ten (10) Business Days of the Borrower’s filing, provide access (via posting and/or links on the Borrower’s website) to all reports filed with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange; and within ten (10) Business Days of filing, provide notice and access (via posting and/or links on the Borrower’s website) to all reports filed with the SEC, and copies of (or access to, via posting and/or links on the Borrower’s website) all other reports, proxy statements and other materials filed by the Borrower with the SEC, any Governmental Authority succeeding to any of the functions of the SEC or with any national securities exchange.

Section 8.02. Notices of Material Events. It will furnish to the Administrative Agent for distribution to the Lenders written notice of the following promptly after a Responsible Officer of the Borrower and its Subsidiaries first learns of the existence of:

(a) promptly after the occurrence of any Default or Event of Default;

(b) promptly after the occurrence of any event with respect to any Obligor’s Property resulting in a Loss, to the extent not covered by insurance, aggregating \$2,000,000 or more;

(c) promptly after obtaining written notice or Knowledge of (i) any proposed Acquisition by any Obligor that would reasonably be expected to result in environmental liability under Environmental Laws in excess of \$1,000,000, and (ii) in each case, to the extent that any of the following would reasonably be expected to result in liability in excess of \$1,000,000: (A) any spillage, leakage, discharge, disposal, leaching, migration or release of any Hazardous Material required to be reported to any Governmental Authority under applicable Environmental Laws, and (B) all actions, suits, Claims, notices of violation, hearings, investigations or proceedings pending, or to the Obligors’ Knowledge, threatened in writing against or affecting any Obligor or any of its Subsidiaries or with respect to the ownership, use, maintenance and operation of their respective businesses, operations or properties, relating to Environmental Laws or Hazardous Material;

(d) within five (5) Business Days of obtaining written notice or Knowledge of the assertion of any environmental matter by any Person in writing against, or with respect to the activities of, any Obligor or any of its Subsidiaries and any alleged violation of or non-compliance with any Environmental Laws or any Permits, licenses or authorizations by any Obligor or any of its Subsidiaries, in each case, which would reasonably be expected to involve damages in excess of \$1,000,000 other than any environmental matter or alleged violation that, if adversely determined, would not reasonably be expected to result (either individually or in the aggregate) in a Material Adverse Effect;

(e) within three (3) Business Days of obtaining notice or Knowledge of the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or directly affecting any Obligor or any of its Subsidiaries, in each case, that would reasonably be expected to result in a Material Adverse Effect;

(f) except where a Material Adverse Effect would not reasonably be expected to result in connection therewith, (i) within ten (10) days after receipt by any Obligor from the PBGC of a notice of intent to terminate any Title IV Plan or to have a trustee appointed to administer any Title IV Plan, a copy of such notice and (ii) promptly, and in any event within ten (10) days, after any Responsible Officer of any Obligor knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan or Multiemployer Plan, a notice (which may be made by telephone if promptly confirmed in writing) describing such waiver request, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto;

(g) within five (5) Business Days of obtaining written notice or Knowledge thereof, (i) the termination of any Material Agreement; (ii) the receipt by any Obligor or any of its Subsidiaries of a written notice under any Material Agreement (and a copy thereof) asserting a default by such Obligor or any of its Subsidiaries where such alleged default would permit such counterparty to terminate such Material Agreement; (iii) the entering into any new Material Agreement by an Obligor (and a copy thereof); or (iv) any amendment to a Material Agreement that would be materially adverse to the Lenders (and a copy thereof) (which includes, but is not limited to, any amendments to provisions relating to pricing and term); *provided* that notices required under this subsection (g) may be delivered with the quarterly Compliance Certificate unless any of the foregoing events would reasonably be expected to have a Material Adverse Effect;

(h) within five (5) Business Days of obtaining written notice or Knowledge thereof, any product recalls, safety alerts, corrections, withdrawals, marketing suspensions, removals or the like conducted, to be undertaken or issued by any Obligor or any of its Subsidiaries, whether or not at the request, demand or order of any Governmental Authority or otherwise with respect to any Product;

(i) within five (5) Business Days of obtaining written notice or Knowledge thereof, any infringement or other violation by any Person of any Obligor Intellectual Property that would reasonably be expected to result in a Material Adverse Effect;

(j) within five (5) Business Days of obtaining written notice or Knowledge thereof, a licensing agreement or arrangement entered into by any Obligor or any of its Subsidiaries in connection with any infringement or alleged infringement of the Intellectual Property of another Person;

(k) within five (5) Business Days of obtaining written notice or Knowledge thereof, any written Claim by any Person that the conduct of any Obligor's (or any Subsidiary thereof) business, including the development, manufacture, use, sale or other commercialization of any Product, infringes any Intellectual Property of such Person, except to the extent any such Claim would not reasonably be expected to result in a Material Adverse Effect;

(l) [reserved];

(m) within sixty (60) days of the date thereof, or, if earlier, on the date of delivery of any financial statements pursuant to Section 8.01, notice of any material change in accounting policies or financial reporting practices by the Obligors;

(n) within five (5) Business Days after obtaining any notice of any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other material labor disruption against or involving an Obligor (or any Subsidiary thereof);

(o) promptly after obtaining notice or Knowledge thereof, any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect;

(p) promptly after obtaining written notice or Knowledge of the acceleration of the maturity of any Indebtedness owed by any Obligor or of any default by Obligors under any other indenture, mortgage, agreement, contract or other instrument to which any of them is a party or by which any of them or any of their properties is bound, if such acceleration or default could, in the reasonable opinion of the Borrower, cause a Material Adverse Effect;

(q) within five (5) Business Days after obtaining written notice or Knowledge of any Taxes or obligations that are not paid in accordance with Section 8.04;

(r) concurrently with the delivery of financial statements under Section 8.01, the creation or other acquisition of any Intellectual Property by any Obligor or any Subsidiary after the date hereof and during such prior fiscal year which is registered or becomes registered or the subject of an application for registration with the United States Copyright Office or the United States Patent and Trademark Office, as applicable, or with any other equivalent foreign Governmental Authority;

(s) within five (5) Business Days of any change to any Obligor's ownership of Deposit Accounts, Securities Accounts and Commodity Accounts (in each case, other than

Excluded Accounts), by delivering to the Lenders an updated Schedule 7 to the Security Agreement setting forth a complete and correct list of all such accounts as of the date of such change; and

(t) within five (5) Business Days of (i) receipt of any subpoena, civil investigative demand letter, or other notice from any Governmental Authority of any investigation or audit, or pending or threatened (in writing) proceedings relating to any material violation of any Health Care Law, (ii) receipt of notice from any Governmental Authority or Third-Party Payor Program of any payment suspension, material overpayment demand, prepayment review, validation review or program integrity review relating to a Federal Health Care Program or any material Third-Party Payor Program, (iii) loss, suspension or relinquishment of any Regulatory Approval, or material Third-Party Payor Authorization, or (iv) voluntary disclosure to a Governmental Authority of an overpayment amount greater than \$1,000,000 related to an actual or potential violation of Health Care Laws.

Each notice delivered under this Section 8.02 shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth in reasonable detail the event or development requiring such notice and any action taken or proposed to be taken with respect thereto; *provided* that, so long as the Borrower is a Publicly Reporting Company, the Borrower's filing of notice of any such event with the SEC shall be deemed to satisfy the requirements of this Section 8.02 on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto.

Notwithstanding any contrary provision of this Agreement or any other Loan Document (including, without limitation, Sections 8.01 and 8.02), so long as the Borrower is a Publicly Reporting Company, in the event that the Administrative Agent provides notice to the Borrower that it no longer desires to receive any information that constitutes material non-public information, the Obligors shall not be required to provide any information pursuant to the terms hereof or thereof unless the Borrower is disclosing such information pursuant to a filing with the SEC; *provided* that notwithstanding the foregoing, the Obligors shall at all times comply with Section 8.01(e) and 8.02(a).

Section 8.03. Existence; Maintenance of Properties, Etc.

(a) It will, and will cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence; *provided* that the foregoing shall not prohibit any merger, amalgamation, plan of arrangement, consolidation, liquidation or dissolution permitted under Section 9.03.

(b) It shall, and shall cause each of its Subsidiaries to, maintain and preserve all rights, licenses, Permits, privileges and franchises material to the conduct of its business, and maintain and preserve all of its assets and properties, including all Product Assets, necessary to the conduct of its business in good working order and condition, ordinary wear and tear and damage from casualty or condemnation excepted.

(c) It shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to cause each new employee to execute and deliver a customary confidentiality, non-disclosure and Intellectual Property assignment agreement.

(d) The Borrower shall maintain sufficient authorized but unissued share capital to satisfy in full, without the need for the passing of any further resolutions of its shareholders, the outstanding rights represented by the Warrant Certificate.

Section 8.04. Payment of Obligations. It will, and will cause each of its Subsidiaries to, pay and discharge (a) all federal income and other material Taxes, fees, assessments and governmental charges or levies imposed upon it or upon its properties or assets prior to the date on which penalties attach thereto, and all lawful Claims for labor, materials and supplies which, if unpaid, might become a Lien (other than a Permitted Lien) upon any properties or assets of any Obligor, except to the extent such Taxes, fees, assessments or governmental charges or levies, or such Claims, are being contested in good faith by appropriate proceedings and are adequately reserved against substantially in accordance with GAAP, (b) all lawful Claims which, if unpaid, would by Law become a Lien upon its Property not constituting a Permitted Lien and (c) all other obligations if the failure to discharge such obligation would reasonably be expected to result in a Material Adverse Effect.

Section 8.05. Insurance. At its own cost and expense, it will, and will cause each of its Subsidiaries, to obtain and maintain, with financially sound and reputable insurers, insurance of the kinds, and in the amounts, as are consistent with customary practices and standards of its industry in the same or similar locations, it being understood and agreed that the insurance held by the Obligors on the Closing Date is deemed to fulfill this requirement on the date hereof. All of the insurance policies required pursuant to this Section 8.05 will name the Administrative Agent as a “lender’s loss payee,” “additional insured” or “mortgagee,” as applicable and as its interests may appear. The Borrower will use its commercially reasonable efforts to ensure, or to cause others to ensure, that all insurance policies required pursuant to this Section 8.05 shall provide that they shall not be terminated or cancelled nor shall any policy be materially changed in a manner adverse to the insured Person without at least thirty (30) days’ written notice (or ten (10) days’ written notice if termination is due to non-payment) to the insured Person and the Administrative Agent. Receipt of notice of termination or cancellation of any such insurance policies shall entitle the Administrative Agent to renew any such policies, all in accordance with the first sentence of this Section 8.05 or otherwise to obtain similar insurance in place of such policies, in each case at the expense of the Borrower (payable within three (3) Business Days of the Borrower’s receipt of written demand therefor) and, unless an Event of Default has occurred and is continuing, with the prior written consent of the Borrower (such consent not to be unreasonably withheld). The amount of any such expenses shall accrue interest at the Default Rate if not paid when due and shall constitute “Obligations.” All of the insurance policies required hereby will be evidenced by one or more certificates of insurance, together with appropriate lender’s loss payee or additional insured clauses or endorsements in favor of the Administrative Agent as required by this Section 8.05, delivered to the Administrative Agent on or before the Closing Date (or, with respect to such endorsements, within the time period set forth in Section 8.18) and at such other times as the Administrative Agent may request in writing from time to time.

Section 8.06. Books and Records; Inspection Rights. It will, and will cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. It will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent, upon reasonable prior notice, but no less than three (3) days' prior written notice, and at reasonable times, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during normal business hours and with reasonable advance notice as the Administrative Agent may request. It will, and will cause each of its Subsidiaries to, pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent (a) so long as no Default has occurred and is continuing, for no more than one (1) such inspection each calendar year and (b) upon the occurrence and during the continuance of a Default, all such inspections. Notwithstanding anything to the contrary contained herein, no Obligor will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes trade secrets or proprietary information, (ii) in respect of which disclosure to any Lender (or their respective representatives or contractors) is prohibited by any applicable law or regulation or any binding agreement with a third party or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Section 8.07. Compliance with Laws.

(a) It will, and will cause each of its Subsidiaries to, (i) comply in all material respects with all Requirements of Law (including Health Care Laws and Environmental Laws) and (ii) comply in all material respects with all terms of outstanding Indebtedness and all Material Agreements, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(b) Each Obligor will maintain, and will cause each of its Subsidiaries to maintain, all records required to be maintained by a Governmental Authority or otherwise under any applicable Health Care Law, except where failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(c) Each Obligor will maintain, and will cause each of its Subsidiaries to maintain, in all material respects, a Health Care Compliance Program, which will be reviewed and updated annually, as necessary.

Section 8.08. Licenses. It will, and will cause each of its Subsidiaries to, obtain and maintain all licenses, authorizations, consents, filings, exemptions, registrations and other Governmental Approvals necessary in connection with the execution, delivery and performance of the Loan Documents, the consummation of the Transactions or the operation and conduct of its business and ownership of its properties, except where failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 8.09. Action under Environmental Laws. Except as would not be reasonably expected to result in a Material Adverse Effect, it will, and will cause each of its Subsidiaries to, upon a Responsible Officer becoming aware of the release of any Hazardous Materials or the

existence of any environmental liability under applicable Environmental Laws with respect to their respective businesses, operations or properties, take all actions, at their cost and expense, as shall be required by applicable Law to investigate and clean up the condition of their respective businesses, operations or properties, including all required removal, containment and remedial actions, and restore their respective businesses, operations or properties to a condition, in each case in material compliance with applicable Environmental Laws.

Section 8.10. Use of Proceeds. The proceeds of the Term Loans will be used only as provided in Section 2.05. No part of the proceeds of the Term Loans will be used, whether directly or indirectly, for any purpose that violates any of the Regulations of the Board of Governors of the Federal Reserve System, including Regulations T, U and X.

Section 8.11. Certain Obligations Respecting Subsidiaries; Further Assurances;

(a) *Subsidiaries.* The Borrower will take such action, and will cause each of its Subsidiaries to take such action, from time to time as shall be necessary to ensure that all Subsidiaries are “Guarantors” hereunder. Without limiting the generality of the foregoing, in the event that any Obligor shall form or acquire any new Subsidiary, it and its Subsidiaries will promptly and in any event within thirty (30) days (or such longer time as consented to by the Administrative Agent in writing) of the formation or Acquisition of such Subsidiary:

(i) cause such new Subsidiary to become a “Guarantor” hereunder, and a “Grantor” under the Security Documents, pursuant to a Guarantee Assumption Agreement;

(ii) take such action or cause such Subsidiary to take such action (including delivering originals of any certificated Equity Interests of such Subsidiary, together with original, executed, undated transfer powers executed in blank and originals of any intercompany notes with undated endorsements executed in blank) as shall be necessary to create and perfect valid and enforceable first priority (subject to Permitted Liens) Liens on substantially all of the personal Property of such new Subsidiary as collateral security for the obligations of such new Subsidiary hereunder;

(iii) cause the parent of such Subsidiary to execute and deliver a pledge agreement in favor of the Administrative Agent, in respect of all outstanding issued shares of such Subsidiary; and

(iv) deliver such proof of corporate action, incumbency of officers, opinions of counsel and other documents as is consistent with those delivered by each Obligor pursuant to Section 6.01 or as the Administrative Agent shall have reasonably requested in writing.

(b) *Further Assurances.* Subject to the limitations contained in the Loan Documents, it will, and will cause each of its Subsidiaries to, take such action from time to

time as shall reasonably be requested in writing by the Administrative Agent to effectuate the purposes and objectives of this Agreement. Without limiting the generality of the foregoing, it will, and will cause each Person that is required to be a Guarantor to, take such action from time to time (including executing and delivering such assignments, security agreements, control agreements and other instruments) as shall be reasonably requested in writing by the Administrative Agent to create, in favor of the Administrative Agent, perfected security interests and Liens (subject to Permitted Liens) in substantially all of the personal Property of such Obligor as collateral security for the Obligations; *provided* that any such security interest or Lien shall be subject to the relevant requirements of the Security Documents.

(c) *Intellectual Property*. In the event that any Obligor creates, develops or acquires Obligor Intellectual Property during the term of this Agreement, then the provisions of this Agreement shall automatically apply thereto and any such Obligor Intellectual Property shall automatically constitute part of the Collateral under the Security Documents, without further action by any party, in each case from and after the date of such creation, development or acquisition (except that any representations or warranties of any Obligor shall apply to any such Obligor Intellectual Property only from and after the date, if any, subsequent to such acquisition that such representations and warranties are brought down or made anew as provided herein). In the event that any Obligor holds or acquires Obligor Intellectual Property during the term of this Agreement, then, upon the written request of the Administrative Agent, such Obligor shall take any action as shall be reasonably necessary and reasonably requested in writing by the Administrative Agent to ensure that the provisions of this Agreement and the Security Agreement shall apply thereto and any such Obligor Intellectual Property shall constitute part of the Collateral under the Security Documents.

Section 8.12. Termination of Non-Permitted Liens. In the event that any Responsible Officer of any Obligor shall become aware or be notified by the Lenders of the existence of any outstanding Lien against any Property of any Obligor or any of its Subsidiaries, which Lien is not a Permitted Lien, such Obligor shall use its commercially reasonable efforts to promptly terminate or cause the termination of such Lien.

Section 8.13. [Reserved].

Section 8.14. [Reserved].

Section 8.15. Financial Covenants.

(a) *Minimum Liquidity*. The Borrower shall ensure that the Obligors on a consolidated basis shall have aggregate Unrestricted Cash of not less than \$3,000,000 at all times.

(b) *Minimum Net Revenue*. As of the end of the fiscal quarter ended June 30, 2025, and each fiscal quarter thereafter, the Obligors shall maintain, on a consolidated basis, Net Revenue for the twelve (12) month period most recently ended (calculated

pursuant to the most recently delivered financial statements) on such date of not less than the amount set forth in the table below:

TWELVE- MONTH PERIOD ENDED	MINIMUM NET REVENUE
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
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***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]
***	\$ [***]

Section 8.16. Maintenance of Regulatory Approvals, Contracts, Intellectual Property, Etc. Each Obligor will, and will cause each of its Subsidiaries (to the extent applicable) to:

(a) maintain in full force and effect all material CLIA laboratory certifications or accreditations, material Regulatory Approvals, Material Agreements, or other rights necessary for the current operations of such Obligor's or such Subsidiary's business, as the case may be, including in respect of all related Product Development and Commercialization Activities;

(b) maintain in full force and effect all Obligor Intellectual Property that is used in and necessary for related Product Development and Commercialization Activities; and

(c) use commercially reasonable efforts to pursue and maintain in full force and effect legal protection for all new, Obligor Intellectual Property that is used in and necessary in connection with any Product Development and Commercialization Activities relating to any such Product.

Section 8.17. Cash Management. It will, and will cause each of their Subsidiaries to:

(a) subject to Section 8.18, maintain all Deposit Accounts, Securities Accounts, Commodity Accounts and lockboxes (other than Excluded Accounts) with a bank or financial institution that has executed and delivered to the Administrative Agent an account control agreement, in form and substance reasonably acceptable to the Administrative Agent (each such Deposit Account, Securities Account, Commodity Account and lockbox, a "*Controlled Account*");

(b) deposit promptly, and in any event no later than five (5) Business Days after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments made in respect of any and all accounts and other rights and interests into Controlled Accounts; and

(c) in order to segregate and to facilitate perfection of the security interest in any funds an Obligor receives from Third-Party Payor Programs, to the extent any Obligor receives payments from a Federal Health Care Program as of the Closing Date, such Obligor shall, within ninety (90) days after the Closing Date (or such later date as may be agreed to by the Administrative Agent) (or with respect to an Obligor's future participation in any Federal Health Care Program, prior to such Obligor's receipt of payments from such Federal Health Care Program), notify all Governmental Authorities making any payments under any Federal Health Care Program to make any such payments only to one or more Segregated Health Care Accounts. No Obligor shall deposit any funds to a Segregated Health Care Account or direct or permit any other Person to deposit any funds to a Segregated Health Care Account, other than payments received from Federal Health Care Programs. The Obligors shall have until the date that is ninety (90) days following (i) the Closing Date (or such later date as may be agreed to by the Administrative Agent), or (ii) the date the applicable Obligor begins receiving payments from any Federal Health Care Program, to cause all amounts deposited into the Segregated Health Care Accounts to be

automatically swept on a daily basis to a Controlled Account pursuant to a Sweep Agreement. Any such Sweep Agreement will require such depository bank to waive all of its existing and future rights of recoupment and set-off and banker's lien against any Segregated Health Care Accounts.

Section 8.18. Post-Closing Obligations. The Obligor will provide the items set forth in Schedule 8.18 within the time periods set forth therein.

ARTICLE 9
NEGATIVE COVENANTS

Each Obligor covenants and agrees with the Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than the Warrant Obligations and unasserted contingent liabilities) have been paid in full in cash:

Section 9.01. Indebtedness. It will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Indebtedness, whether directly or indirectly, except:

(a) the Obligations;

(b) Indebtedness existing on the date hereof and set forth in Schedule 9.01(b) and Permitted Refinancings thereof;

(c) accounts payable to trade creditors for goods and services and current operating liabilities (not the result of the borrowing of money) incurred in the Ordinary Course of Business;

(d) Indebtedness consisting of guarantees resulting from endorsement of negotiable instruments for collection by an Obligor or any of its Subsidiaries in the Ordinary Course of Business;

(e) unsecured Indebtedness of an Obligor to any other Obligor; *provided* such Indebtedness is pledged to the Administrative Agent for the benefit of the Lenders under the Security Agreement and otherwise subordinate in right of payment to the Obligations on terms reasonably satisfactory to the Administrative Agent in its sole discretion;

(f) Guarantees by any Obligor of Indebtedness of any other Obligor;

(g) purchase money Indebtedness and Capital Lease Obligations and Permitted Refinancings thereof; *provided* that (i) if secured, the collateral therefor consists solely of the assets being financed, the products and proceeds thereof and books and records related thereto, (ii) in the case of purchase money Indebtedness, such Indebtedness shall not constitute less than 75% of the aggregate consideration paid with respect to such asset and (iii) the aggregate outstanding principal amount of such Indebtedness does not exceed \$2,000,000 at any time;

(h) unsecured workers' compensation Claims, payment obligations in connection with health, disability or other types of social security benefits, unemployment or other insurance obligations, reclamation and statutory obligations, in each case incurred in the Ordinary Course of Business;

(i) Indebtedness under Hedging Agreements permitted pursuant to Section 9.05(f);

(j) Indebtedness approved in advance in writing by the Majority Lenders and Permitted Refinancings thereof;

(k) Indebtedness of the Borrower and its Subsidiaries with respect to corporate credit cards not to exceed \$1,500,000 at any time outstanding;

(l) Indebtedness consisting of obligations of an Obligor under deferred compensation or other similar arrangements incurred by such Person in the Ordinary Course of Business in connection with a transaction expressly permitted hereunder;

(m) Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts;

(n) obligations in respect of appeal and surety bonds and performance and completion guarantees and similar obligations provided by an Obligor or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the Ordinary Course of Business;

(o) Indebtedness supported by a letter of credit with respect to which the Borrower has any reimbursement obligations, so long as such reimbursement obligations constitute Indebtedness permitted pursuant to any other clause of this Section 9.01;

(p) Indebtedness consisting of unpaid insurance premiums (not in excess of one year's premiums) owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the Ordinary Course of Business;

(q) endorsements for collection, deposit or negotiation and warranties of products or services, in each case incurred in the Ordinary Course of Business;

(r) Indebtedness arising as a direct result of judgments, orders, awards or decrees against an Obligor or any of its Subsidiaries, in each case not constituting an Event of Default; and

(s) other Indebtedness in an aggregate outstanding amount not to exceed \$1,000,000 at any time and Permitted Refinancings thereof.

Section 9.02. Liens. It will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any Property now owned by it, except:

(a) Liens securing the Obligations;

(b) any Lien on any Property of any Obligor existing on the date hereof and set forth in Schedule 9.02(b); *provided* that (i) no such Lien shall extend to any other Property of such Obligor and (ii) any such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(c) Liens securing Indebtedness permitted under Section 9.01(g); *provided* that such Liens are restricted solely to the collateral described in Section 9.01(g);

(d) Liens imposed by Law which were incurred in the Ordinary Course of Business, including (but not limited to) carriers', warehousemen's, landlords' and mechanics' Liens, Liens relating to leasehold improvements and other similar liens arising in the Ordinary Course of Business and which (i) do not in the aggregate materially detract from the value of the Property subject thereto or materially impair the use thereof in the operations of the business of such Person or (ii) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the Property subject to such Liens and for which adequate reserves have been made if required substantially in accordance with GAAP;

(e) Liens, pledges or deposits made in the Ordinary Course of Business in connection with bids, Contracts, leases, appeal bonds, workers' compensation, unemployment insurance or other similar social security legislation;

(f) Liens securing Taxes, assessments and other governmental charges, the payment of which is not yet due or is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made;

(g) servitudes, easements, rights of way, restrictions and other similar encumbrances on real Property imposed by applicable Laws and encumbrances consisting of zoning or building restrictions, easements, licenses, restrictions on the use of Property or minor imperfections in title thereto which, in the aggregate, are not material, and which do not in any case materially detract from the value of the Property subject thereto or interfere with the ordinary conduct of the business of such Obligor or Subsidiary;

(h) bankers' Liens, rights of setoff and similar Liens incurred in the Ordinary Course of Business and arising in connection with Deposit Accounts or Securities Accounts held at financial institutions solely to secure payment of fees and similar costs and expenses of such financial institutions with respect to such accounts;

(i) Liens in connection with transfers permitted under Section 9.09;

(j) any judgment Lien or Lien arising from decrees or attachments not constituting an Event of Default;

(k) leases or subleases of real property granted in the Ordinary Course of Business, and leases, subleases, nonexclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the Ordinary Course of Business;

(l) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of custom duties in connection with the importation of goods, not securing an amount in the aggregate in excess of \$500,000 at any given time;

(m) Liens on a Deposit Account of the Obligors and the cash and cash equivalents therein, in each case, securing Indebtedness described in Section 9.01(k);

(n) any interest or title of a lessor, sublessor, licensor or sublicensor under leases, subleases, licenses or sublicenses entered into by the Borrower in the Ordinary Course of Business;

(o) Liens that are contractual rights of set-off or rights of pledge (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness or (ii) relating to pooled deposit or sweep accounts of an Obligor to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business of such Obligor;

(p) Liens solely on any cash earnest money deposits made by an Obligor in connection with any letter of intent or purchase agreement permitted hereunder;

(q) Permitted Licenses solely to the extent that such Permitted License would constitute a Lien; and

(r) Liens on assets owned by the Obligors not otherwise permitted under this Agreement securing obligations in an aggregate amount not to exceed \$100,000.

provided that no Lien otherwise permitted under any of the foregoing Sections 9.02 (excluding Sections 9.02(a) and 9.02(q)) shall apply to any Obligor Intellectual Property.

Section 9.03. Fundamental Changes and Acquisitions. It will not, and will not permit any of its Subsidiaries to:

(a) enter into or consummate any transaction of merger, amalgamation, plan of arrangement or consolidation, including without limitation, a reverse-triangular merger, or other similar transaction or series of related transactions;

(b) liquidate, wind up or dissolve itself (or suffer any liquidation, wind up or dissolution) (including in connection with any division or plan of division under Delaware law or any comparable event under a different jurisdiction's laws); or

(c) make or consummate any Acquisition or sell or issue any Disqualified Equity Interests, except, in each case:

(i) Investments permitted under Section 9.05;

(ii) Permitted Acquisitions for (i) aggregate cash consideration not to exceed \$1,000,000 and (ii) total consideration not to exceed \$2,500,000 (including any consideration in the form of equity issuances), in each case, for the course of this Agreement;

(iii) (x) the merger, amalgamation or consolidation of any Obligor with or into any other Obligor, *provided* that if the Borrower is a party to such merger, amalgamation or consolidation, the Borrower shall be the surviving entity and (y) any merger, amalgamation or consolidation of any non-Obligor subsidiary with or into any other non-Obligor subsidiary; and

(iv) Asset Sales permitted under Section 9.09.

Section 9.04. Lines of Business. It will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than the business engaged in on the date hereof by such Person, or a business reasonably related, ancillary, incidental or complementary thereto or reasonable extensions thereof.

Section 9.05. Investments. It will not, and will not permit any of its Subsidiaries to, make, directly or indirectly, or permit to remain outstanding any Investments except:

(a) Investments outstanding on the date hereof and identified in Schedule 9.05 and any modification, replacement, renewal or extension thereof to the extent not involving new or additional Investments;

(b) operating Deposit Accounts with banks;

(c) extensions of credit in the nature of accounts receivable or notes receivable arising from the sales of goods or services in the Ordinary Course of Business;

(d) Permitted Cash Equivalent Investments;

(e) (i) Investments consisting of 100% of the ownership of the Equity Interests of its Subsidiaries, (ii) intercompany Investments by any Obligor in any other Obligor or (iii) Investments by the Obligors and their Subsidiaries acquired in connection with a Permitted Acquisition;

(f) Hedging Agreements entered into in the ordinary course of any Obligor's financial planning solely to hedge interest rate risks or foreign currency exchange risks (and not, in either case, for speculative purposes);

(g) Investments consisting of prepaid expenses, negotiable instruments held for collection or deposit, security deposits with utilities, landlords and other like Persons, and deposits in connection with workers' compensation and similar deposits, in each case made in the Ordinary Course of Business;

(h) Investments received in connection with any Insolvency Proceedings in respect of any customers, suppliers or clients and in settlement of delinquent obligations of, and other disputes with, customers, suppliers or clients;

(i) Investments permitted under Section 9.01(e) and Section 9.03;

(j) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the Ordinary Course of Business;

(k) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of the Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the Borrower's Board in an aggregate amount not to exceed \$250,000 for subclauses (i) and (ii) in any fiscal year;

(l) Investments consisting of loans made in lieu of Restricted Payments which are otherwise permitted under Section 9.06;

(m) the increase in the value of any Investment permitted pursuant to this Section 9.05; and

(n) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Investment, or after giving effect thereto, other Investments in an amount not to exceed \$1,000,000 in any fiscal year.

Section 9.06. Restricted Payments. It will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, other than:

(a) dividends, stock splits or distributions with respect to any Equity Interests of the Borrower or any of its Subsidiaries payable solely in additional shares of its Qualified Equity Interests;

(b) any Restricted Payment by an Obligor or a Subsidiary of an Obligor to an Obligor;

(c) any purchase, redemption, retirement, or other Acquisition by the Borrower or any of its Subsidiaries of shares of its capital stock or other Equity Interests with the

proceeds received from a substantially concurrent issue of new shares of its capital stock or other Equity Interests;

(d) cashless exercises of options and warrants;

(e) repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements, stockholder rights plans, director or consultant stock option plans, or similar plans in an aggregate amount not to exceed 500,000 in any fiscal year;

(f) the making of cash payments in lieu of the issuance of fractional shares upon the conversion of convertible securities (or in connection with the exercise of warrants or similar securities) not to exceed \$500,000 in any fiscal year;

(g) stock for stock exchanges and other like non-cash transactions which constitute merger consideration in connection with mergers permitted under Section 9.03(c)(ii); and

(h) the issuance of the Warrant Certificate.

Section 9.07. Payments of Indebtedness. It will not, and will not permit any of its Subsidiaries to, make any payments in respect of any Material Indebtedness other than (a) payments of the Obligations, (b) Permitted Refinancings to the extent permitted pursuant to Section 9.01 and (c) so long as no Default has occurred and is continuing or would result therefrom scheduled payments of other Permitted Indebtedness and repayment of intercompany Indebtedness permitted in reliance upon Section 9.01(e) (subject in each case to any subordination agreement entered into in connection therewith).

Section 9.08. Change in Fiscal Year. It will not, and will not permit any of its Subsidiaries to, change the last day of its fiscal year from that in effect on the date hereof, without prior written notice to the Administrative Agent, except to change the fiscal year of a Subsidiary acquired in connection with a Permitted Acquisition to conform its fiscal year to that of the Borrower.

Section 9.09. Sales of Assets, Etc. It will not, and will not permit any of its Subsidiaries to, sell, lease, exclusively license (in terms of geography or field of use), as a licensor, transfer (including in connection with any division or plan of division under Delaware law or any comparable event under a different jurisdiction's laws) or otherwise dispose of any of its Property (including accounts receivable and Equity Interests of Subsidiaries), in each case, in one transaction or series of transactions (any thereof, an "Asset Sale"), except:

(a) transfers of cash in the Ordinary Course of Business for equivalent value;

(b) sales, transfers, leases and other dispositions of products and services in the Ordinary Course of Business;

(c) the forgiveness, release or compromise of any amount owed to any Obligor in the Ordinary Course of Business;

(d) sales, transfers and other dispositions of receivables in connection with the compromise, settlement or collection thereof in the Ordinary Course of Business;

(e) entering into, or becoming bound, by a Permitted License to the extent not otherwise prohibited by this Agreement;

(f) research, development and other collaborative arrangements where such arrangements provide for the license or disclosure of Patents, Trademarks, Copyrights or other Intellectual Property rights of any Obligor in the Ordinary Course of Business and consistent with general market practices; *provided* that (i) such licenses must be true licenses that do not result in a legal transfer of title of the licensed Property or otherwise constitute sales transactions in substance, and (ii) the aggregate amount of such periodic payments to the Obligors in any fiscal year shall not exceed \$500,000;

(g) a sale, lease, exclusive license, transfer or other disposition (including by way of abandonment, cancellation or trade-in) of any Property that is obsolete, worn out, surplus or no longer used or useful in connection with the business of the Obligors or with respect to which a newer and improved version is available;

(h) dispositions resulting from Casualty Events;

(i) any transaction permitted under Section 9.02, 9.03, 9.05 and 9.20;

(j) the unwinding of any hedging agreement permitted by Section 9.05 pursuant to its terms;

(k) the abandonment, cancellation, non-renewal or discontinuance of use or maintenance of Intellectual Property (or rights relating thereto) that Borrower determines in good faith is desirable in the conduct of its business and not materially disadvantageous to the interests of Administrative Agent; and

(l) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Asset Sale, or after giving effect thereto, Asset Sales of other property not to exceed \$1,000,000 in the aggregate per fiscal year.

Section 9.10. Transactions with Affiliates. It will not, and will not permit any of its Subsidiaries to, sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except:

(a) transactions between or among the Obligors;

(b) any transaction permitted under Section 9.01, 9.05, 9.06 or 9.09;

(c) customary compensation and indemnification of, and other employment arrangements with, directors, officers and employees of any Obligor in the Ordinary Course of Business;

(d) transactions upon fair and reasonable terms that are no less favorable to any Obligor than would be obtained in a comparable arm's-length transaction with a Person not an Affiliate;

(e) the transactions set forth on Schedule 9.10; and

(f) the payment of any fees, expense reimbursements and indemnification obligations to officers and directors and the payment of insurance premiums on behalf of officers and directors;

Section 9.11. Restrictive Agreements. It will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any Restrictive Agreement other than (a) restrictions and conditions imposed by Law or by the Loan Documents or any joint venture or similar agreement, (b) Restrictive Agreements listed on Schedule 7.15, (c) any stockholder agreement, investor rights agreement, charter, bylaws or other Organizational Documents of an Obligor as in effect on the date hereof or (d) limitations associated with Permitted Liens or with any transaction permitted under Sections 9.01, 9.03, 9.05, 9.06 or 9.09.

Section 9.12. Organizational Documents, Material Agreements

(a) It will not, and will not permit any of its Subsidiaries to, enter into any amendment to or modification of any Organizational Document that would be reasonably expected to adversely affect the Lenders in any material respect, without the prior written consent of the Administrative Agent.

(b) It will not, and will not permit any of its Subsidiaries to (i) enter into any material waiver, amendment or modification of any Material Agreement (including, but not limited to, any amendments to provisions relating to pricing and term) that would be reasonably expected to adversely affect the Lenders in any material respect or (ii) take or omit to take any action that results in the termination of, or permits any other Person to terminate, any Material Agreement or Obligor Intellectual Property that would be reasonably expected to adversely affect the Lenders in any material respect, without, in each case, the prior written consent of the Administrative Agent.

Section 9.13. Anti-Terrorism and Anti-Corruption Laws. No Obligor nor any of its Subsidiaries shall engage in any transaction that violates any of the applicable prohibitions set forth in any Economic Sanctions Law, Anti-Terrorism Law, or the *US Foreign Corrupt Practices Act of 1977* (15 USC. §§ 78dd-1 *et seq.*). None of the funds or assets of such Obligor or any Subsidiary that are used to repay the Term Loans shall constitute property of, or shall be beneficially owned by, any Designated Person or, to such Obligor's Knowledge, be the direct proceeds derived from any transactions that violate the prohibitions set forth in any applicable Economic Sanctions Law, and no Designated Person shall have any direct or indirect interest in

any Obligor or any of its Subsidiaries insofar as such interest would violate any Economic Sanctions Laws applicable to such Obligor or such Subsidiary.

Section 9.14. Sales and Leasebacks. Except as permitted by Section 9.01(g), it will not, and will not permit any of its Subsidiaries to, become liable, directly or indirectly, with respect to any lease, whether an operating lease or a Capital Lease Obligation, of any Property (whether real, personal, or mixed), whether now owned or hereafter acquired, which (a) any Obligor has sold or transferred or is to sell or transfer to any other Person and (b) any Obligor intends to use for substantially the same purposes as Property which has been or is to be sold or transferred.

Section 9.15. Hazardous Material. It will not, and will not permit any of its Subsidiaries to, use, generate, manufacture, install, treat, release, store or dispose of any Hazardous Material, except in compliance with all applicable Environmental Laws or where the failure to comply would not reasonably be expected to result in a Material Adverse Change.

Section 9.16. Accounting Changes. It will not, and will not permit any of its Subsidiaries to, make any significant change in accounting treatment, except as required or permitted by GAAP.

Section 9.17. Compliance with ERISA. No Obligor or ERISA Affiliate shall cause or suffer to exist (a) any event that would result in the imposition of a Lien with respect to any Title IV Plan or Multiemployer Plan or (b) any other ERISA Event, in the case of (a) and (b), that would, in the aggregate, have a Material Adverse Effect.

Section 9.18. Deposit Accounts/Securities Accounts. It will not, and will not permit any of its Subsidiaries to, establish or maintain any bank account and any securities account that is not a Controlled Account (other than an Excluded Account) and will not, and will not permit any of its Subsidiaries to, deposit proceeds in any account that is not a Controlled Account; (other than an Excluded Account).

Section 9.19. Outbound Licenses. It will not, and will not permit any of its Subsidiaries to, enter into or become bound by any outbound license or agreement unless such outbound license or agreement is a Permitted License.

Section 9.20. Inbound Licenses. It will not, and will not permit any of its Subsidiaries to, enter into or become bound by any inbound license or agreement (other than Permitted Licenses) unless (a) no Default has occurred and is continuing, (b) the Obligors have provided written notice to the Administrative Agent of the material terms of such license or agreement with a description of its anticipated and projected impact on such Obligor's business or financial condition, and (c) in the case of an Obligor, such Obligor has taken such commercially reasonable actions as the Administrative Agent may reasonably request to obtain the consent of, or waiver by, any Person whose consent or waiver is necessary for the Administrative Agent to be granted a valid and perfected security interest in such license or agreement allowing the Administrative Agent to fully exercise its rights under any of the Loan Documents in the event of a disposition or liquidation of the rights, assets or property that is the subject of such license or agreement; *provided* that the aggregate amounts to be paid under all such inbound licenses pursuant to this Section 9.20 shall not exceed an amount equal to \$1,000,000 per fiscal year.

ARTICLE 10
EVENTS OF DEFAULT

Section 10.01. Events of Default. Each of the following events shall constitute an “*Event of Default*”:

(a) The Borrower shall fail to pay any principal on the Term Loans when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise; or

(b) any Obligor shall fail to pay any Obligation (other than an amount referred to in Section 10.01(a)) when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days; or

(c) any representation or warranty made by or on behalf of an Obligor or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, shall: (i) prove to have been incorrect when made or deemed made to the extent that such representation or warranty contains any materiality or Material Adverse Effect qualifier; or (ii) prove to have been incorrect in any material respect when made or deemed made to the extent that such representation or warranty does not otherwise contain any materiality or Material Adverse Effect qualifier; or

(d) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in Sections 8.01, 8.02, 8.03(a) (with respect to such Obligor’s existence), 8.10, 8.11, 8.13, 8.15, 8.16, 8.17, 8.18 or Article 9; or

(e) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 10.01(a), (b) or (d)) or any other Loan Document, and, in the case of any failure that is capable of cure, such failure shall continue unremedied for a period of thirty (30) or more days; or

(f) any Obligor shall fail to make any payment of principal or interest (regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable after giving effect to any applicable grace or cure period as originally provided by the terms of such Indebtedness; or

(g) (i) any material breach of, or “event of default” or similar event under, the Contract governing any Material Indebtedness shall occur and such breach or “event of default” or similar event shall continue unremedied, uncured or unwaived after a period of five (5) Business Days after the expiration of any grace or cure period thereunder, or (ii) any event or condition occurs (A) that results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) that enables or permits (with or without the giving

of notice, the lapse of time or both) the holder or holders of such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; *provided* that this Section 10.01(g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the Property securing such Material Indebtedness; or

(h) any Obligor or any of its Subsidiaries:

(i) ceases to be Solvent, or generally does not or becomes unable to pay its debts or meet its liabilities as the same become due, or admits in writing its inability to pay its debts generally, or declares any general moratorium on its Indebtedness, or proposes a compromise or arrangement or deed of company arrangement between it and any class of its creditors; or

(ii) shall (A) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (B) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 10.01(i), (C) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for an Obligor or for a substantial part of its assets, (D) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (E) make a general assignment for the benefit of creditors or (F) take any action for the purpose of effecting any of the foregoing; or

(i) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of an Obligor or any Subsidiary of an Obligor or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for an Obligor or any Subsidiary of an Obligor or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or

(j) one or more judgments for the payment of money in an aggregate amount in excess of \$1,000,000 (excluding any amounts covered by insurance as to which the applicable carrier has not denied) shall be rendered against any Obligor or any combination thereof and the same shall remain undischarged for a period of sixty (60) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Obligor to enforce any such judgment; or

(k) an ERISA Event shall have occurred that, in the opinion of the Lenders, when taken together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect; or

(l) a Change of Control shall have occurred; or

(m) a Material Adverse Change shall have occurred; or

(n) (i) any Lien created by any of the Security Documents shall at any time not constitute a valid and perfected Lien in favor of the Administrative Agent on Collateral with an aggregate value in excess of \$500,000, free and clear of all other Liens (other than Permitted Liens) except due to the action or inaction of the Administrative Agent or any Lender(s), (ii) the Security Documents or any Guarantee of any of the Obligations shall for whatever reason cease to be in full force and effect, or (iii) any of the Security Documents or any Guarantee of any of the Obligations, or the enforceability thereof, shall be contested by any Obligor; or

(o) any injunction, whether temporary or permanent, shall be rendered against any Obligor that prevents the Obligors from selling or manufacturing any Product that has a Material Adverse Effect; or

(p) (i) a Regulatory Authority or any other Governmental Authority initiates enforcement action against, or issues a warning letter or other written notice alleging a material violation of any applicable Requirements of Law with respect to, any Obligor, or any of their Products or the manufacturing or laboratory facilities therefor, that causes any Obligor thereof to discontinue marketing or withdraw any of its Products, which discontinuance or withdrawal would reasonably be expected to last for more than one-hundred twenty (120) days, (ii) any material Permit (including all Regulatory Approvals or clinical laboratory Permits), or any of the Obligors' material rights or interests thereunder, is terminated or suspended, (iii) there is a recall of any Product in any territory that would reasonably be expected to result in a loss of revenue equal to [***] following such event, (iv) any Obligor is required to pay a fine, penalty, settlement amount or other payment to any Governmental Authority which individually or in the aggregate is in excess of \$1,500,000 (excluding any amounts covered by insurance as to which the applicable carrier has accepted coverage) for any violation or alleged violation of any Health Care Law or (v) any Obligor is (a) excluded from all Federal Health Care Programs, (b) "suspended" or "debarred" from selling products to the U.S. government or its agencies pursuant to the Federal Acquisition Regulation, relating to debarment and suspension applicable to federal government agencies generally (42 C.F.R. Subpart 9.4), or (c) debarred, disqualified, suspended or excluded from participation in any material Third-Party Payor Program or is listed on the General Services Administration list of excluded parties.

Section 10.02. Remedies.

(a) Upon the occurrence of any Event of Default, then, and in every such event (other than an Event of Default described in Section 10.01(h) or (i)), and at any time thereafter during the continuance of such event, the Majority Lenders may, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Term Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Term Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations, shall become due and payable immediately (in the case of the Term Loans, at the Redemption Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(b) Upon the occurrence of any Event of Default described in Section 10.01(h) or (i), the Commitments shall automatically terminate and the principal amount of the Term Loans then outstanding, together with accrued interest thereon and all fees and other Obligations, shall automatically become due and payable immediately (in the case of the Term Loan, at the Redemption Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(c) If any Lender collects any money or property pursuant to this Article 10, they shall pay out the money or property in the order set forth in Section 4.01(c).

Section 10.03. Prepayment Premium and Redemption Price. For the avoidance of doubt, any Prepayment Premium (as a component of the Redemption Price) shall be due and payable at any time the Term Loans become due and payable prior to the Stated Maturity Date in accordance with the terms hereof, whether due to acceleration pursuant to the terms of this Agreement (in which case it shall be due immediately, upon the giving of notice to the Borrower in accordance with Section 10.02(a), or automatically, in accordance with Section 10.02(b)), by operation of law or otherwise (including, without limitation, on account of any bankruptcy filing). In view of the impracticability and extreme difficulty of ascertaining the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such acceleration, and by mutual agreement of the parties as to a reasonable estimation and calculation of the lost profits or damages of the Lenders, any Prepayment Premium shall be due and payable upon such date. Each Obligor hereby waives any defense to payment, whether such defense may be based in public policy, ambiguity, or otherwise. The Obligors and the Lenders acknowledge and agree that any Prepayment Premium due and payable in accordance with this Agreement shall not constitute unmatured interest, whether under Section 502(b)(2) of the Bankruptcy Code or otherwise. Each Obligor further acknowledges and agrees, and waives any argument to the contrary, that payment of such amount does not constitute a penalty or an otherwise unenforceable or invalid obligation.

ARTICLE 11
GUARANTEE

Section 11.01. The Guarantee. The Guarantors hereby jointly and severally guarantee to the Administrative Agent and each Lender, and its successors and assigns, the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the principal of and interest on the Term Loans, all fees and other amounts and Obligations from time to time owing to the Administrative Agent and any Lender by the Borrower under this Agreement or under any other Loan Document and by any other Obligor under any of the Loan Documents, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the “*Guaranteed Obligations*”). The Guarantors hereby further jointly and severally agree that if the Borrower shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

Section 11.02. Obligations Unconditional. The Obligations of the Guarantors under Section 11.01 are irrevocable, continuing, absolute and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the obligations of the Borrower under this Agreement or any other agreement or instrument referred to herein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or Guarantor, it being the intent of this Section 11.02 that the Obligations of the Guarantors hereunder shall be absolute and unconditional, joint and several, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder, which shall remain absolute and unconditional as described above:

(a) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(b) any of the acts mentioned in any of the provisions of this Agreement or any other agreement or instrument referred to herein shall be done or omitted;

(c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect (including, without limitation, any modification, supplement, or amendment that results in any increase in the Guaranteed Obligations, any change in the interest or fees payable, any renewal, extension, amendment, rescission, waiver, release, discharge, indulgence, compromise, arrangement, or any other variation in connection with the Guaranteed Obligations, any Loan Document, or any other agreement), or any right under

this Agreement or any other agreement or instrument referred to herein shall be waived or any other Guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(d) any Lien or security interest granted to, or in favor of, any Lender as security for any of the Guaranteed Obligations shall fail to be perfected or otherwise be taken, exchanged, substituted, varied, released, impaired, or subordinated;

(e) any Guarantee of the Guaranteed Obligations shall be taken, released, impaired, amended, waived or otherwise modified;

(f) any of the Guaranteed Obligations, any Loan Document, or any related agreement, security, or instrument shall be illegal, invalid or unenforceable for any reason whatsoever;

(g) any Collateral or other assets shall be sold or disposed, and/or the proceeds of such sale or disposition applied, to satisfy all or part of the Guaranteed Obligations;

(h) any of the security or Collateral held for the Guaranteed Obligations shall lose or diminish in value, whether such loss or diminution arises from any act or omission of the Administrative Agent or any Lender;

(i) there shall be any Default, failure, or delay, willful or otherwise, in the payment and/or performance of the Guaranteed Obligations;

(j) there shall be any change, restructuring or termination of the corporate structure, ownership or existence of any Obligor or any of its Subsidiaries or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligor or its assets or any resulting restructuring, compromise, release or discharge of any Guaranteed Obligations;

(k) there shall be any failure of any of the Administrative Agent or any Lender to disclose to any Obligor any information relating to the business, financial condition, results of operations, performance, properties or prospects of any other Obligor, or any other information now or hereafter known to the Administrative Agent or such Lender;

(l) any person shall fail to execute or deliver this Agreement (including the Guarantee in this Article 11) or any other Guarantee or agreement or the release or reduction of liability of any Obligor or surety with respect to the Guaranteed Obligations;

(m) any of the Administrative Agent or any Lender shall fail to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of any Loan Document or otherwise;

(n) any Obligor shall assert any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, such against any of the Administrative Agent or any Lender; or

(o) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the Guaranteed Obligations shall exist or occur, or any of the Administrative Agent or any Lender shall rely on any representation, in each case, that might vary the risk of any Obligor or otherwise operate as a defense available to, or a legal or equitable discharge of, any Obligor or surety.

The Guarantors hereby expressly waive diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against the Borrower under this Agreement or any other agreement or instrument referred to herein, or against any other Person under any other Guarantee of, or security for, any of the Guaranteed Obligations.

Section 11.03. Reinstatement. The obligations of the Guarantors under this Article 11 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrower in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Guarantors jointly and severally agree that they will indemnify the Administrative Agent and each Lender on demand for all reasonable costs and expenses (including reasonable fees of counsel) incurred by such Persons in connection with such rescission or restoration, including any such reasonable costs and expenses incurred in defending against any Claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar Law.

Section 11.04. Subrogation. The Guarantors hereby jointly and severally agree that, until the payment and satisfaction in full of all Guaranteed Obligations (other than the Warrant Obligations and unasserted contingent liabilities) and the expiration and termination of the Commitments, they shall not exercise any right or remedy arising by reason of any performance by them of their Guarantee in Section 11.01, whether by subrogation or otherwise, against the Borrower or any other guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

Section 11.05. Remedies. The Guarantors jointly and severally agree that, as between the Guarantors, on one hand, and the Lenders, on the other hand, the obligations of the Borrower under this Agreement and under the other Loan Documents may be declared to be forthwith due and payable as provided in Article 10 (and shall be deemed to have become automatically due and payable in the circumstances provided in Article 10) for purposes of Section 11.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against the Borrower and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by the Borrower) shall forthwith become due and payable by the Guarantors for purposes of Section 11.01.

Section 11.06. Instrument for the Payment of Money. Each Guarantor hereby acknowledges that the Guarantee in this Article 11 constitutes an instrument for the payment of money, and consents and agrees that each Lender, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to proceed by motion for summary judgment in lieu of complaint pursuant to N.Y. Civ. Prac. L&R § 3213.

Section 11.07. Continuing Guarantee. The Guarantee in this Article 11 is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising. Without limiting the generality of the foregoing, the Guarantors hereby unconditionally and irrevocably waive any right to revoke this Guarantee in this Article 11 and acknowledge that the Guarantee in this Article 11 is continuing in nature, shall guarantee any ultimate balance owing to any of the Administrative Agent or any Lender, and applies to all presently existing and future Guaranteed Obligations, until the complete, irrevocable and payment and satisfaction in full of the Guaranteed Obligations. The Guarantee in this Article 11 shall continue to apply to all Guaranteed Obligations owing to the Administrative Agent and the Lenders by any entity resulting from any Obligor merging, amalgamating, or otherwise entering into any other business combination transaction with one or more other entities.

Section 11.08. Rights of Contribution. The Guarantors hereby agree, as between themselves, that if any Guarantor shall become an Excess Funding Guarantor (as defined below) by reason of the payment by such Guarantor of any Guaranteed Obligations, each other Guarantor shall, on demand of such Excess Funding Guarantor (but subject to the next sentence), pay to such Excess Funding Guarantor an amount equal to such Guarantor's Pro Rata Share (as defined below and determined, for this purpose, without reference to the properties, debts and liabilities of such Excess Funding Guarantor) of the Excess Payment (as defined below) in respect of such Guaranteed Obligations. The payment obligation of a Guarantor to any Excess Funding Guarantor under this Section 11.08 shall be subordinate and subject in right of payment to the prior payment in full of the obligations of such Guarantor under the other provisions of this Article 11 and such Excess Funding Guarantor shall not exercise any right or remedy with respect to such excess until payment and satisfaction in full of all of such obligations.

For purposes of this Section 11.08, (a) "*Excess Funding Guarantor*" means, in respect of any Guaranteed Obligations, a Guarantor that has paid an amount in excess of its Pro Rata Share of such Guaranteed Obligations, (b) "*Excess Payment*" means, in respect of any Guaranteed Obligations, the amount paid by an Excess Funding Guarantor in excess of its Pro Rata Share of such Guaranteed Obligations and (c) "*Pro Rata Share*" means, as of the date of determination, for any Guarantor, the ratio (expressed as a percentage) of (i) the amount by which the aggregate present fair saleable value of all properties of such Guarantor (excluding any shares of stock of any other Guarantor) exceeds the amount of all the debts and liabilities of such Guarantor (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder and any obligations of any other Guarantor that have been guaranteed by such Guarantor) to (ii) the amount by which the aggregate fair saleable value of all properties of all of the Guarantors exceeds the amount of all the debts and liabilities (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of the Borrower and the Guarantors hereunder and under the other Loan Documents) of all of the Guarantors, determined (A) with respect to any Guarantor that is a party hereto on the Closing

Date, as of such date, and (B) with respect to any other Guarantor, as of the date such Guarantor becomes a Guarantor hereunder.

Section 11.09. General Limitation on Guarantee Obligations. In any action or proceeding involving any provincial, territorial or state corporate Law, or any state, federal, provincial, territorial or foreign bankruptcy, insolvency, reorganization or other Law affecting the rights of creditors generally, if the obligations of any Guarantor under Section 11.01 would otherwise, taking into account the provisions of Section 11.08, be held or determined to be void, invalid or unenforceable, or subordinated to the Claims of any other creditors, on account of the amount of its liability under Section 11.01, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, the Administrative Agent, the Lenders or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the Claims of other creditors as determined in such action or proceeding.

ARTICLE 12

ADMINISTRATIVE AGENT

Section 12.01. Appointment. Each of the Lenders hereby irrevocably appoints Perceptive to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article 12 are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any other Obligor will have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 12.02. Rights as a Lender. The Person serving as the Administrative Agent hereunder will have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term “Lender” or “Lenders” will, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity to the extent such Person is a Lender. The Lenders acknowledge and agree that such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower, the other Obligors or any other Subsidiaries or Affiliates of the Obligors as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 12.03. Exculpatory Provisions.

(a) The Administrative Agent will not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder are administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) will not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) will not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Majority Lenders (or such other number or percentage of the Lenders as will be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent will not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including any action that may be in violation of the automatic stay under any Insolvency Proceeding; and

(iii) will not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and will not be liable for the failure to disclose, any information relating to the Obligors or any of its Subsidiaries or Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent will not be liable for any action taken or not taken by it (i) with the consent or at the request of the Majority Lenders (or such other number or percentage of the Lenders as will be necessary, or as the Administrative Agent believes in good faith will be necessary, under the circumstances), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Administrative Agent will be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower or a Lender.

(c) The Administrative Agent will not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article 6 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 12.04. Reliance by Administrative Agent. The Administrative Agent will be entitled to rely upon, and will not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and will not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of the Term Loans that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent has received notice to the contrary from such Lender prior to the making of the Term Loans. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and will not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 12.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory provisions of this Article 12 will apply to any such sub-agent and to the Affiliates of the Administrative Agent and any such sub-agent, and will apply to their respective activities in connection with the syndication of the facility as well as activities as Administrative Agent. The Administrative Agent will not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 12.06. Resignation of Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Borrower, which notice shall set forth the effective date of such resignation (the "*Resignation Effective Date*"), such date not to be earlier than the thirtieth (30th) day following the date of such notice. The Majority Lenders and the Borrower shall mutually agree upon a successor to the Administrative Agent. If the Majority Lenders and the Borrower are unable to so mutually agree and no successor shall have been appointed within twenty-five (25) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may (but will not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent it shall designate (in its reasonable discretion after consultation with the Borrower and the Majority Lenders). Whether or not a successor has been appointed, such resignation will become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date (i) the retiring Administrative Agent will be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the

retiring Administrative Agent will continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments owed to the retiring Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent will instead be made by or to each Lender directly, until such time, if any, as the Majority Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor will succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Administrative Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent), and the retiring Administrative Agent will be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent will be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article 12 and Sections 13.03 and 13.06 will continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Section 12.07. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates and based on such documents and information as it will from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 12.08. Administrative Agent May File Proofs of Claim. In case of the pendency of any Insolvency Proceeding or any other judicial proceeding relative to an Obligor, the Administrative Agent (irrespective of whether the principal of the Term Loans will then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent has made any demand on an Obligor) will be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a Claim for the whole amount of the principal and interest owing and unpaid in respect of the Term Loans and all other Obligations that are owing and unpaid hereunder or under any other Loan Document and to file such other documents as may be necessary or advisable in order to have the Claims of the Lenders and the Administrative Agent (including any Claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under this Agreement or any other Loan Document) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such Claims and to distribute the same.

Any custodian, receiver, assignee, trustee, liquidator, sequesteror or other similar official in any such judicial proceeding is hereby authorized by each Lender to make any payments of the type described above in this Section 12.08 to the Administrative Agent and, in the event that the Administrative Agent consents to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement or any other Loan Document.

Section 12.09. Collateral and Guaranty Matters; Appointment of Collateral Agent.

(a) Without limiting the provisions of Section 12.08, the Lenders irrevocably agree as follows:

(i) the Administrative Agent is authorized, at its option and in its discretion, to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (A) on the date when all Obligations have been satisfied in full in cash (other than the Warrant Obligations and unasserted contingent liabilities), (B) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under the Loan Documents, or (C) subject to Sections 13.01 and 13.04, if approved, authorized or ratified in writing by the Majority Lenders; and

(ii) the Administrative Agent is authorized, at its option and discretion, to release any Guarantor from its obligations hereunder if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, each Lender will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Collateral, or to release any Guarantor from its obligations under its guaranty pursuant to this Section 12.09.

(b) The Administrative Agent will not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Obligor in connection therewith, nor will the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(c) Each Lender hereby appoints the Administrative Agent as its collateral agent under each of the Security Documents and agrees that, in so acting, the Administrative Agent will have all of the rights, protections, exculpations, indemnities and other benefits provided to the Administrative Agent under this Agreement, and hereby

authorizes and directs the Administrative Agent, on behalf of such Lender and all Lenders, without the necessity of any notice to or further consent from any of the Lenders, from time to time to (i) take any action with respect to any Collateral or any Security Document which may be necessary to perfect and maintain perfected the Liens on the Collateral granted pursuant to any such Security Document or protect and preserve the Administrative Agent's ability to enforce the Liens or realize upon the Collateral, (ii) act as collateral agent for each Lender for purposes of acquiring, holding, enforcing and perfecting all Liens created by the Loan Documents and all other purposes stated therein, (iii) enter into intercreditor or subordination agreements, as the case may be, in connection with Indebtedness permitted pursuant to Sections 9.01(e) and 9.01(m), as applicable, (iv) enter into non-disturbance or similar agreements in connection with licensing agreements and arrangements permitted by this Agreement and the other Loan Documents and (v) otherwise to take or refrain from taking any and all action that the Administrative Agent shall deem necessary or advisable in fulfilling its role as collateral agent under any of the Security Documents.

ARTICLE 13

MISCELLANEOUS

Section 13.01. No Waiver. No failure on the part of the Administrative Agent or the Lenders to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by Law.

Section 13.02. Notices. All notices, requests, instructions, directions and other communications provided for herein (including any modifications of, or waivers, requests or consents under, the Loan Documents) shall be given or made in writing (including by telecopy or electronic mail) delivered, if to the Borrower, another Obligor, the Administrative Agent or the Lenders, to its address specified on Schedule 2 hereto or its Guarantee Assumption Agreement, as the case may be, or at such other address as shall be designated by such party in a notice to the other parties. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given upon receipt of a legible copy thereof, in each case given or addressed as aforesaid. Notwithstanding anything to the contrary in this Agreement, notices, documents, certificates and other deliverables to the Lenders by any Obligor may be made solely to the Administrative Agent and the Administrative Agent shall promptly deliver such notices, documents, certificates and other deliverables to the other Lenders.

Section 13.03. Expenses, Indemnification, Etc.

(a) *Expenses.* Each Obligor agrees to pay or reimburse (i) the Administrative Agent and the Lenders for all of their reasonable and documented out-of-pocket costs and expenses (including the reasonable and documented fees and expenses of one firm of outside counsel to all such Persons taken as a whole and, if necessary, of one local counsel

in any relevant jurisdiction to all such Persons, taken as a whole and solely in the case of an actual or potential conflict of interest, (x) one additional counsel to all such Persons similarly affected, taken as a whole, and (y) one additional local counsel to all such Persons similarly affected, taken as a whole, in any relevant jurisdiction) in connection with (A) the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents and the making of the Term Loans (exclusive of post-closing costs); *provided* that, so long as the Borrowing of the Tranche A Term Loan is made, such fees shall be credited against the Expense Deposit, (B) reasonable and documented post-closing costs and (C) the negotiation or preparation of any amendment, modification, supplement or waiver of any of the terms of this Agreement or any of the other Loan Documents (whether or not consummated) and (ii) the Administrative Agent and the Lenders for all of their reasonable and documented out-of-pocket costs and expenses (including the reasonable fees and expenses of legal counsel) in connection with any enforcement or collection proceedings resulting from the occurrence of an Event of Default that is continuing.

(b) *Indemnification.* Each Obligor hereby indemnifies the Administrative Agent, the Lenders, their respective Affiliates, and their respective directors, officers, employees, attorneys, agents and advisors (each, an “*Indemnified Party*”) from and against, and agrees to hold them harmless against, any and all reasonable and documented out-of-pocket Claims and Losses of any kind (including one firm of outside counsel to all such Persons taken as a whole and, if necessary, of one local counsel in any relevant jurisdiction to all such Persons, taken as a whole and solely in the case of an actual or potential conflict of interest, (x) one additional counsel to all such Persons similarly affected, taken as a whole, and (y) one additional local counsel to all such Persons similarly affected, taken as a whole, in any relevant jurisdiction), joint or several, that is incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any investigation, litigation or proceeding or the preparation of any defense with respect thereto arising out of or in connection with or relating to this Agreement or any of the other Loan Documents or the Transactions or any use made or proposed to be made with the proceeds of the Term Loans, whether or not such investigation, litigation or proceeding is brought by an Obligor, any of its shareholders or creditors, an Indemnified Party or any other Person, or an Indemnified Party is otherwise a party thereto, and whether or not any of the conditions precedent set forth in Article 6 are satisfied or the other Transactions contemplated by this Agreement are consummated, except to the extent such Claim or Loss is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from any Indemnified Party’s gross negligence or willful misconduct. No Obligor shall assert any claim against any Indemnified Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the Transactions or the actual or proposed use of the proceeds of the Term Loans. This Section 13.03(b) shall not apply to Taxes other than Taxes relating to a non-Tax Claim or Loss governed by this Section 13.03(b).

Section 13.04. Amendments, Etc. Except as otherwise expressly provided in this Agreement, any provision of this Agreement or any other Loan Document (except for the Warrant Certificate, which may be amended, modified, waived or supplemented in accordance with the terms thereof)

may be amended, modified, waived or supplemented only by an instrument in writing signed by Obligors, the Administrative Agent and the Majority Lenders; *provided that*:

(a) no amendment, waiver or consent shall, unless in writing and signed by all of the Lenders, do any of the following at any time:

(i) change the number of Lenders or the percentage of (A) the Commitments or (B) the aggregate unpaid principal amount of the Term Loans that, in each case, shall be required for the Lenders or any of them to take any action hereunder (including pursuant to any change to the definition of "*Majority Lenders*");

(ii) release one or more Guarantors (or otherwise limit such Guarantors' liability with respect to the Obligations owing to the Lenders under the Guarantees) if such release or limitation is in respect of all or substantially all of the value represented by the Guarantees to the Lenders;

(iii) release, or subordinate the Lenders' Liens in, all or substantially all of the Collateral in any transaction or series of related transactions (other than in connection with any sale of Collateral permitted herein); or

(iv) amend any provision of this Section 13.04;

(b) no amendment, waiver or consent shall, unless in writing and signed by each Lender specified below for such amendment, waiver or consent:

(i) increase the Commitments of a Lender without the consent of such Lender;

(ii) reduce the principal of, or stated rate of interest on, or any Prepayment Premium payable on, the Term Loans owed to a Lender or any fees or other amounts stated to be payable hereunder or under the other Loan Documents to such Lender without the consent of such Lender;

(iii) postpone any date scheduled for any payment of principal of, or interest on, the Term Loans, any date scheduled for payment or for any date fixed for any payment of fees hereunder (excluding the due date of any mandatory prepayment of a Term Loan), in each case payable to a Lender without the consent of such Lender;

(iv) change the order of application of prepayment of the Term Loans from the application thereof set forth in the applicable provisions of Sections 4.01(b) and (c) in any manner that adversely affects the Lenders without the consent of holders of a majority of the Commitments or Term Loans outstanding or otherwise change any provision requiring the pro rata distributions hereunder among the Lenders without all Lenders' consent; or

(v) modify Section 2.02 without the consent of each Lender directly and adversely affected thereby.

Section 13.05. Successors and Assigns.

(a) *General.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) no Obligor may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by such Obligor without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 13.05. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (e) of this Section 13.05) and, to the extent expressly contemplated hereby, the Indemnified Parties of the Lenders) any legal or equitable right, remedy or Claim under or by reason of this Agreement.

(b) *Amendments to Loan Documents.* Each of the Lenders and the Obligors agrees to enter into such amendments to the Loan Documents, and such additional Security Documents and other instruments and agreements, in each case in form and substance reasonably acceptable to the Lenders and the Obligors, as shall reasonably be necessary to implement and give effect to any assignment made by any Lender (or any direct or indirect assignee thereof) from time to time under this Section 13.05.

(c) *Assignments by Lenders.*

(i) Subject to the conditions set forth in paragraph (c)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Assignee) all or a portion of its rights and obligations under the Loan Documents (including all or a portion of its Commitment and the Term Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of the Administrative Agent, provided that no consent of the Administrative Agent shall be required for an assignment of any Commitment or of all or any portion of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Term Loans, the amount of the Commitment or Term Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent) shall

not be less than \$500,000, unless the Administrative Agent otherwise consents;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents; and

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement in form and substance reasonably satisfactory to the Administrative Agent.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (d) of this Section 13.05, from and after the effective date specified in each Assignment Agreement, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Lender under the Loan Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under the Loan Documents (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto). Any assignment or transfer by a Lender of rights or obligations under the Loan Documents that does not comply with this Section 13.05 shall be treated for purposes of the Loan Documents as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section 13.05.

(d) *Register.* The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Term Loans owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. No assignment shall be effective for purposes of this Agreement unless (i) it has been recorded in the Register as provided in this paragraph and (ii) any written consent to such assignment required by paragraph (c) of this Section 13.05 has been obtained.

(e) *Participations.* Any Lender may at any time, without the consent of, or notice to, the Borrower, sell participations to any Person (a "*Participant*"), other than an Ineligible Assignee, in all or a portion of such Lender's rights and obligations under the Loan Documents (including all or a portion of its Commitment and the Term Loans owing to it); *provided* that (i) such Lender's obligations under the Loan Documents shall remain

unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower shall continue to deal solely and directly with such Lender in connection therewith.

(f) Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that would (i) increase or extend the term of such Lender's Commitment, (ii) extend the date fixed for the payment of principal of or interest on the Term Loans or any portion of any fee hereunder payable to the Participant, (iii) reduce the amount of any such payment of principal, or (iv) reduce the rate at which interest is payable thereon to a level below the rate at which the Participant is entitled to receive such interest. The Borrower agrees that each Participant shall be entitled to the benefits of Section 5.03 (subject to the requirements and limitations therein, including the requirements under Section 5.03(f) (it being understood that the documentation required under Section 5.03(f) shall be delivered to the Borrower and the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.05(a), *provided* that such Participant (A) agrees to be subject to the provisions of Section 5.03(h) as if it were an assignee under Section 13.05(a); and (B) shall not be entitled to receive any greater payment under Section 5.03, with respect to any participation, than its participating Lender would have been entitled to receive, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 4.04(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Term Loans or other obligations under the Loan Documents (the "*Participant Register*"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(g) *Certain Pledges.* The Lenders may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement and any other Loan Document to secure obligations of the Lenders, including any pledge or assignment to secure obligations to a Federal Reserve Bank or another central bank; *provided* that no such pledge or assignment shall release the Lenders from any of their obligations hereunder or substitute any such pledgee or assignee for the Lenders as a party hereto.

Section 13.06. Survival. The obligations of each Obligor under Sections 5.01, 5.02, 5.03, 13.03, 13.05, 13.09, 13.10, 13.11, 13.12, 13.13, 13.14 and Article 11 (solely to the extent guaranteeing any of the obligations under the foregoing Sections) shall survive the repayment of the Obligations and the termination of the Commitments and, in the case of any Lender's assignment of any interest in the Commitments or the Term Loans hereunder, shall survive, in the case of any event or circumstance that occurred prior to the effective date of such assignment, the making of such assignment, notwithstanding that such Lenders may cease to be a "Lender" hereunder. In addition, each representation and warranty made, or deemed to be made by a notice of the Term Loans, herein or pursuant hereto shall survive the making of such representation and warranty.

Section 13.07. Captions. The table of contents and captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 13.08. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission, electronic transmission (in PDF format) or DocuSign shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," and words of like import in any Assignment Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 13.09. GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED IN AND TO BE PERFORMED ENTIRELY WITHIN THAT STATE, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

Section 13.10. Jurisdiction, Service of Process and Venue.

(a) *SUBMISSION TO JURISDICTION.* EACH OBLIGOR AGREES THAT ANY SUIT, ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY OR ANY JUDGMENT ENTERED BY ANY COURT IN RESPECT THEREOF SHALL BE BROUGHT IN THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND IRREVOCABLY SUBMITS TO

THE EXCLUSIVE JURISDICTION OF EACH SUCH COURT FOR THE PURPOSE OF ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT.

(b) *Alternative Process.* Nothing herein shall in any way be deemed to limit the ability of the Lenders to serve any such process or summonses in any other manner permitted by applicable Law.

(c) *WAIVER OF VENUE, ETC.* EACH OBLIGOR IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND HEREBY FURTHER IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. A FINAL JUDGMENT (IN RESPECT OF WHICH TIME FOR ALL APPEALS HAS ELAPSED) IN ANY SUCH SUIT, ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY COURT TO THE JURISDICTION OF WHICH SUCH OBLIGOR IS OR MAY BE SUBJECT, BY SUIT UPON JUDGMENT.

Section 13.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 13.12. WAIVER OF IMMUNITY. TO THE EXTENT THAT ANY OBLIGOR MAY BE OR BECOME ENTITLED TO CLAIM FOR ITSELF OR ITS PROPERTY OR REVENUES ANY IMMUNITY ON THE GROUND OF SOVEREIGNTY OR THE LIKE FROM SUIT, COURT JURISDICTION, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT OR EXECUTION OF A JUDGMENT, AND TO THE EXTENT THAT IN ANY SUCH JURISDICTION THERE MAY BE ATTRIBUTED SUCH AN IMMUNITY (WHETHER OR NOT CLAIMED), SUCH OBLIGOR HEREBY IRREVOCABLY AGREES NOT TO CLAIM AND HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

Section 13.13. Entire Agreement. This Agreement and the other Loan Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Each Obligor acknowledges, represents and warrants that in deciding to enter into this Agreement and the other Loan Documents or in taking or not taking any action hereunder or thereunder, it has not relied, and will not rely, on any statement, representation, warranty, covenant, agreement or understanding, whether written or oral, of or with the Lenders other than those expressly set forth in this Agreement and the other Loan Documents.

Section 13.14. Severability. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable Law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

Section 13.15. No Fiduciary Relationship. The Administrative Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the “*Lenders*”), may have economic interests that conflict with those of the Obligor, their stockholders or equity holders and/or their Affiliates (collectively, solely for purposes of this paragraph, the “*Obligors*”). The Obligor acknowledges that the Lenders have no fiduciary relationship with, or fiduciary duty to, any Obligor arising out of or in connection with this Agreement or the other Loan Documents, and the relationship between each Lender and each Obligor are solely that of creditors and debtors. This Agreement and the other Loan Documents do not create a joint venture among the parties.

Section 13.16. USA Patriot Act. The Administrative Agent and the Lenders hereby notify the Obligor that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “*Act*”) and 31 C.F.R. § 1010.230 (the “*Beneficial Ownership Regulation*”), they are required to obtain, verify and record information that identifies the Obligor, which information includes the name and address of each Obligor and other information that will allow the Administrative Agent and such Lender to identify each Obligor in accordance with the Act and Beneficial Ownership Regulation, including a beneficial ownership certification in form and substance acceptable to the Administrative Agent.

Section 13.17. Treatment of Certain Information; Confidentiality. The Lenders agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed to (a) its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, agents, trustees, advisors and representatives (collectively, “*Representatives*”) (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as FINRA or the National Association of Insurance Commissioners) or any exchange, (c) to the extent required by the applicable Laws or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those in this Section 13.17, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any Guarantor and its obligation, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 13.17 or (ii) becomes available to the Lender, or any of its respective Representatives on a nonconfidential basis from a source other than the Borrower or any other Obligor. For purposes of this Section 13.17, “*Information*” means all information received from an Obligor relating to such Obligor or its Subsidiary or any of their respective businesses, except that the term “*Information*” shall not include, and the Lenders shall not be subject to any confidentiality

obligation with respect to any information that (A) is or becomes available to the Lender or any of its Representatives on a nonconfidential basis prior to disclosure by an Obligor, (B) becomes available to a Lender or any of its Representatives after disclosure by an Obligor or its Subsidiary from a source that, to the knowledge of such Lender, is not subject to a confidentiality obligation to such Obligor, (C) is or becomes publicly available other than as a result of a breach by such Lender, or (D) is developed by a Lender or any of its Representatives. Any Person required to maintain the confidentiality of Information as provided in this Section 13.17 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

In the case of any Lender that has elected to receive material non-public information pursuant to Section 8.02, such Lender acknowledges that (a) the Information may include material non-public information concerning an Obligor or its Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

Section 13.18. Releases of Guarantees and Liens.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, each Lender agrees, and the Administrative Agent is hereby irrevocably authorized by each Lender and given a limited power of attorney by each Lender to perform the actions described hereafter in this Section 13.18 (without requirement of notice to or consent of any Lender except as expressly required by Section 13.04) to take any action reasonably requested by the Borrower having the effect of releasing any Collateral or Obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to by the Lenders or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Term Loans and the other Obligations (other than the Warrant Obligations and unasserted contingent liabilities) under the Loan Documents shall have been paid in full in cash and the Commitments have been terminated, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Obligor under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

Section 13.19. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

[Remainder of the Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

EXAGEN INC.

By: /s/ Jeffrey Black

Name: Jeffrey Black

Title: Chief Financial Officer

[Signature Page to Credit Agreement and Guaranty]

PERCEPTIVE CREDIT HOLDINGS IV, LP
as Administrative Agent and a Lender

By: Perceptive Credit Opportunities GP, LLC, its general partner

By: /s/ Sandeep Dixit

Name: Sandeep Dixit

Title: Chief Credit Officer

By: /s/ Sam Chawla

Name: Sam Chawla

Title: Portfolio Manager

[Signature Page to Credit Agreement and Guaranty]

**SCHEDULE 1
TO
CREDIT AGREEMENT**

COMMITMENTS AND MAXIMUM AMOUNT

SECURITY AGREEMENT

Dated as of

April 25, 2025

among

EXAGEN INC.,

as Grantor,

THE OTHER GRANTORS FROM TIME TO TIME PARTY HERETO

and

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

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SECURITY AGREEMENT

This SECURITY AGREEMENT (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this “*Agreement*”), dated as of April 25, 2025, is made by and among EXAGEN INC., a Delaware corporation (the “*Borrower*”), the grantors listed on the signature pages hereto as of the date hereof (collectively with the Borrower and each entity that becomes a “*Grantor*” hereunder as contemplated by Section 5.12, each, a “*Grantor*”, and collectively, the “*Grantors*”), and PERCEPTIVE CREDIT HOLDINGS IV, LP, a Delaware limited partnership, as administrative agent (in such capacity, the “*Administrative Agent*”) for the Secured Parties.

The Secured Parties have agreed to provide term loans to the Borrower, as provided in the Credit Agreement (as defined below).

Each Grantor (other than the Borrower) has guaranteed the obligations of the Borrower to the Secured Parties under the Credit Agreement.

To induce the Secured Parties to extend credit under the Credit Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor has agreed to grant a security interest in the Collateral (as defined below) of such Grantor as security for the Secured Obligations (as defined below).

Accordingly, the parties hereto agree as follows:

SECTION 1. DEFINITIONS, ETC.

Section 1.01. Certain Uniform Commercial Code Terms . As used herein, the terms “Accession”, “Account”, “Account Debtor”, “Cash Proceeds”, “Certificate of Title”, “Certificated Security”, “Chattel Paper”, “Check,” “Commercial Tort Claim”, “Commodity Account”, “Commodity Contract”, “Deposit Account”, “Document”, “Electronic Chattel Paper”, “Encumbrance,” “Entitlement Holder”, “Equipment”, “Financial Asset”, “Fixture”, “General Intangible”, “Goods”, “Instrument”, “Inventory”, “Investment Property”, “Letter of Credit Rights”, “Noncash Proceeds”, “Payment Intangibles”, “Proceeds,” “Promissory Note,” “Record”, “Securities Account”, “Security”, “Security Entitlement”, “Software”, “Supporting Obligation” and “Uncertificated Security” have the respective meanings set forth in the UCC.

Section 1.02. Additional Definitions. In addition, as used herein:

“*Administrative Agent*” has the meaning assigned to such term in the preamble.

“*Borrower*” has the meaning assigned to such term in the preamble.

“*Collateral*” has the meaning assigned to such term in Section 3.01.

“*Copyrights*” means all copyrights, copyright registrations and applications for copyright registrations, including all renewals and extensions thereof, all rights to recover for past, present

or future infringements thereof and all other rights whatsoever accruing thereunder or pertaining thereto.

“*Credit Agreement*” means that certain Credit Agreement and Guaranty, dated as of the date hereof, among the Borrower, the other Grantors from time to time party thereto, the Lenders from time to time party thereto and the Administrative Agent, as such agreement is amended, supplemented, or otherwise modified, restated, amended and restated, extended, renewed, or replaced from time to time.

“*Excluded Accounts*” has the meaning set forth in the Credit Agreement.

“*Excluded Asset*” means:

(a) any Trademark that would be rendered invalid, abandoned, void or unenforceable by reason of it being included as part of the Collateral; *provided, however*, that the Proceeds, substitutions or replacements of the foregoing shall not constitute an Excluded Asset;

(b) Excluded Accounts;

(c) any lease, license, permit, state or local franchise, charter, authorization, property right, contract or agreement to which any Grantor is a party, in each case, if and only if, and solely to the extent that, (i) the grant of a security interest therein shall constitute or result in a breach, termination or default or abandonment, voiding, unenforceability or invalidity of any right or interest thereunder or thereof (other than to the extent that any such term would be deemed ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC of any relevant jurisdiction or any other applicable law or principles of equity) or (ii) such lease, license, contract or agreement is an off the shelf or over-the-counter license of intellectual property that is not material to the operation of the business of the applicable Grantor or which can be replaced without a material expenditure; *provided* that immediately upon the time at which the consequences described in the foregoing clause (i) shall no longer exist, the Collateral shall include, and the applicable Grantor shall be deemed to have granted a security interest in, all of such Grantor’s right, title and interest in such lease, license, contract or agreement; *provided, however*, that the Proceeds of the foregoing shall not constitute an Excluded Asset;

(d) any application for registration of a trademark filed on an intent-to-use (or equivalent) basis solely to the extent that the grant of a security interest in any such trademark application would materially adversely affect the validity or enforceability of the resulting trademark registration or result in cancellation of such trademark application;

(e) any asset that is subject to a Lien securing a purchase money obligation or capital lease obligation permitted to be incurred pursuant to the provisions of the Credit Agreement if the contract or other agreement in which such Lien is granted (or the documentation providing for such purchase money obligation or capital lease obligation) prohibits the creation of any other Lien on such asset;

(f) any interests in joint ventures and similar investments which restrict pledges or assignments of any Grantor's interests therein, provided that the terms of such joint venture agreement or similar contract shall not have been adopted in contemplation of this provision, but only to the extent and while such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by the UCC or any other requirement of law;

(g) any other asset or property with respect to which the Administrative Agent reasonably determines in its sole discretion that the costs of obtaining a security interest therein are excessive in relation to the value of the security afforded thereby; and

(h) motor vehicles.

"Grantor" has the meaning assigned to such term in the preamble.

"Initial Pledged Shares" means the Shares of each Issuer beneficially owned by any Grantor on the date hereof and identified in Schedule 2.

"Issuers" means, collectively, (a) the respective Persons identified on Schedule 2 under the caption "Issuer" and (b) any other Person that shall at any time be required to become a Grantor pursuant to the terms of the Loan Documents or any other Grantor.

"Joinder" has the meaning specified in Section 5.12.

"Patents" means all patents and patent applications, including the inventions and improvements described and claimed therein together with the reissues, divisions, continuations, renewals, extensions and continuations in part thereof, all income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, all damages and payments for past or future infringements thereof and rights to sue therefor, and all rights corresponding thereto throughout the world.

"Pledged Shares" means, collectively, (a) the Initial Pledged Shares and (b) all other Shares of any Issuer now or hereafter owned by any Grantor, together in each case with (i) all certificates representing the same and (ii) without prejudice to any provision of any of the Loan Documents prohibiting any merger or consolidation by an Issuer, all Shares of any successor entity of any such merger or consolidation.

"Secured Obligations" means, with respect to each Grantor, the Obligations of such Grantor.

"Secured Parties" means collectively, the Lenders, the Administrative Agent and their successors and assigns as Lenders or the Administrative Agent, as applicable, under the Credit Agreement.

"Shares" means shares of capital stock of a corporation, limited liability company interests, partnership interests and other ownership or equity interests of any class in any Person.

“Trademarks” means all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, including all renewals of trademark and service mark registrations, all rights to recover for all past, present and future infringements thereof and all rights to sue therefor, and all rights corresponding thereto throughout the world, together, in each case, with the product lines and goodwill of the business connected with the use thereof.

“UCC” shall mean the Uniform Commercial Code as in effect in the State of New York; *provided, however*, that if by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the Administrative Agent’s security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term *“UCC”* shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions relating to such provisions.

Section 1.03. Other Defined Terms. All other capitalized terms used and not defined herein have the meanings ascribed to them in the Credit Agreement.

SECTION 2. REPRESENTATIONS AND WARRANTIES

Each Grantor represents and warrants to the Administrative Agent, for the benefit of the Secured Parties, that:

Section 2.01. Title.

(a) Such Grantor is the sole beneficial owner of or, with respect to licensed or leased property, has rights in, the Collateral in which it purports to grant a Lien hereunder, and no Lien exists upon such Collateral, other than Permitted Liens.

(b) The security interest created or provided for herein constitutes a valid first-priority (subject to Permitted Liens) perfected lien on such Collateral, subject, for the following Collateral, to the occurrence of the following: (i) in the case of Collateral in which a security interest may be perfected by filing a financing statement under the UCC, the filing of a UCC financing statement naming such Grantor as debtor, the Administrative Agent as secured party, and listing all personal property as collateral, (ii) with respect to any Deposit Account, Securities Account or Commodity Account, the execution of agreements among such Grantor, the applicable financial institution and the Administrative Agent, effective to grant “control” (as defined in the UCC) over such Deposit Account, Securities Account or Commodity Account to the Administrative Agent, (iii) with respect to any Intellectual Property not described in the foregoing clause (i), the filing of this Security Agreement or a short-form security agreement properly evidencing this Security Agreement with the applicable Intellectual Property office of the applicable government for such Intellectual Property, (iv) in the case of all certificated Shares, the delivery thereof to the Administrative Agent, properly endorsed for transfer to the Administrative Agent or in blank, (v) in the case of assets evidenced by Certificates of Title, delivery thereof to the Administrative Agent with the Lien granted hereby indicated thereon, (vi) in the case of other Collateral which requires or permits possession by the Administrative Agent to perfect its security interest therein,

delivery, and endorsement if necessary, thereof to the Administrative Agent, and (vii) in the case of any other type of Collateral, such actions as set forth in Section 4.01 with respect thereto.

Section 2.02. Names, Etc. The full and correct legal name, type of organization, jurisdiction of organization, organizational ID number (if applicable) and mailing address of such Grantor as of the date hereof are correctly set forth in Schedule 1. Schedule 1 correctly specifies the place of business of such Grantor or, if such Grantor has more than one place of business, the location of the chief executive office of such Grantor.

Section 2.03. Changes in Circumstances. Such Grantor has not (a) within the period of four months prior to the date hereof, changed its location (as defined in Section 9-307 of the UCC), or (b) except as specified in Schedule 1, heretofore changed its name within the period of five years prior to the date hereof.

Section 2.04. Pledged Shares.

(a) The Initial Pledged Shares constitute 100% of the issued and outstanding Shares of each Issuer beneficially owned by such Grantor on the date hereof, whether or not registered in the name of such Grantor. Schedule 2 correctly identifies, as at the date hereof, the respective Issuers of the Initial Pledged Shares and (in the case of any corporate Issuer) the respective class and par value of such Shares and the respective number of such Shares (and registered owner thereof) represented by each such certificate.

(b) As of the date hereof, the Initial Pledged Shares are (i) duly authorized, validly existing, fully paid and non-assessable (in the case of any Shares issued by a corporation) and (ii) duly issued and outstanding (in the case of any equity interest in any other entity). None of such Pledged Shares are or will be subject to any contractual restriction, or any restriction under the charter, bylaws, partnership agreement or other organizational instrument of the respective Issuer thereof, upon the transfer of such Pledged Shares (except for any such restriction (i) contained in any Loan Document, (ii) contained in any Restrictive Agreement permitted under Section 9.11 of the Credit Agreement, or (iii) affecting the offering and sale of securities generally).

Section 2.05. Promissory Notes. Schedule 3 sets forth a complete and correct list of all Promissory Notes held by such Grantor on the date hereof.

Section 2.06. Intellectual Property.

(a) Schedules 4, 5 and 6, respectively, set forth a complete and correct list of all of the following Intellectual Property included in the Collateral owned by such Grantor on the date hereof (or, in the case of any supplement to said Schedules 4, 5 and 6, effecting a pledge thereof, as of the date of such supplement): (i) pending and applied for or registered Copyrights, (ii) pending and applied for or registered Patents, including the jurisdiction and patent number, (iii) pending and applied for or registered Trademarks, including the jurisdiction, trademark application or registration number and the application or registration date and (iv) trade names.

(b) Except as permitted by the Credit Agreement or pursuant to (i) licenses and other user agreements entered into by such Grantor in the Ordinary Course of Business (including as supplemented by any supplement effecting a pledge thereof), (ii) non-exclusive licenses and (iii) Permitted Licenses, such Grantor has done nothing to authorize or enable any other Person to use any Copyright, Patent or Trademark listed in said Schedules 4, 5 and 6 (as so supplemented), and all registrations listed in said Schedules 4, 5 and 6 (as so supplemented) are, except as noted therein, in full force and effect in all material respects.

Section 2.07. Deposit Accounts, Securities Accounts and Commodity Accounts. Schedule 7 sets forth a complete and correct list of all Deposit Accounts, Securities Accounts and Commodity Accounts, in each case indicating any Excluded Accounts, of such Grantor on the date hereof.

Section 2.08. Commercial Tort Claims. Schedule 8 sets forth a complete and correct list of all Commercial Tort Claims of such Grantor having a value reasonably believed by such Grantor to be in excess of \$500,000 on the date hereof.

Section 2.09. Update of Schedules. Each of Schedules 1 through 8 may be updated by Grantors from time to time to ensure the continued accuracy of the representations set forth in this Section 2 to be made on any upcoming date on which representations and warranties are made incorporating the information in such Schedule, by the Borrower providing notice (attaching an amended and restated version of such Schedule) in accordance with Section 13.02 of the Credit Agreement, or at such other times and in such manner and as set forth in the Credit Agreement.

SECTION 3. COLLATERAL

Section 3.01. Granting Clause. As collateral security for the payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, each Grantor hereby pledges and grants to the Administrative Agent, for the benefit of the Secured Parties, a Lien in all of such Grantor's right, title and interest in, to and under all of its property, in each case whether tangible or intangible, wherever located, and whether now owned by such Grantor or hereafter acquired and whether now existing or hereafter coming into existence, including without limitation all of the following, but excluding all Excluded Assets (collectively, and subject to the proviso at the end of this Section 3.01, "*Collateral*"):

- (a) all Accounts (including all trade receivables);
- (b) all Chattel Paper and other Records;
- (c) all Checks;
- (d) all Commercial Tort Claims;
- (e) all Deposit Accounts, all cash, and all other property from time to time deposited therein or otherwise credited thereto and the monies and property in the possession or under the control of the Administrative Agent or any Grantor or any of its

Affiliates, representative, agent or correspondent of the Administrative Agent or any Grantor;

(f) all Documents;

(g) all Encumbrances;

(h) all Equipment;

(i) all Fixtures;

(j) all General Intangibles (including in respect of any intercompany Indebtedness);

(k) all Goods not otherwise described in this Section 3;

(l) all Instruments, including all Promissory Notes and any Instrument evidencing any intercompany Indebtedness;

(m) all Intellectual Property;

(n) all Inventory;

(o) all Letter of Credit Rights and all Supporting Obligations;

(p) all Investment Property not otherwise described in this Section 3, including all Securities, all Securities Accounts and all Security Entitlements with respect thereto and Financial Assets carried therein, and all Commodity Accounts and Commodity Contracts;

(q) all Pledged Shares;

(r) all assets subject to Certificates of Title;

(s) all other tangible and intangible personal property of such Grantor (whether or not subject to the UCC), including, without limitation, all bank and other accounts and all cash and all investments therein, all proceeds, products, offspring, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the property of such Grantor described in the preceding clauses of this Section 3.01 (including, without limitation, any proceeds of insurance thereon and all causes of action, claims and warranties now or hereafter held by such Grantor in respect of any of the items listed above), and all books, correspondence, files, invoices and other Records, including, without limitation, all tapes, disks, cards, software, data and computer programs in the possession or under the control of such Grantor or any other Person from time to time acting for such Grantor that at any time evidence or contain information relating to any of the property described in the preceding clauses of this Section 3.01 or are otherwise necessary or helpful in the collection or realization thereof; and

(t) all Proceeds, including all Cash Proceeds and Noncash Proceeds, of any and all of the foregoing Collateral;

in each case howsoever such Grantor's interest therein may arise or appear (whether by ownership, security interest, claim or otherwise); *provided, however*, that, nothing set forth in this Section 3.01 or any other provision of this Agreement or any other Loan Document shall at any time constitute the grant of a security interest in, or a Lien on, any Excluded Asset, none of which shall constitute Collateral. For the avoidance of doubt, the Administrative Agent agrees that with respect to the Intellectual Property, the rights of the licensees under the Permitted Licenses will not be terminated, limited or otherwise materially and adversely affected by (i) the execution of or (ii) the exercise of the Administrative Agent's rights under this Agreement or any other Loan Document.

SECTION 4. FURTHER ASSURANCES; REMEDIES

In furtherance of the grant of the security interest pursuant to Section 3, Grantors hereby jointly and severally agree with the Administrative Agent as follows:

Section 4.01. Delivery and Other Perfection. Subject to the limitations set forth in the Credit Agreement, each Grantor shall promptly from time to time give, execute, deliver, file, record, authorize or obtain all such financing statements, continuation statements, notices, instruments, documents, agreements or consents as the Administrative Agent advises is necessary or reasonably requests to create, preserve, perfect, maintain the perfection of or validate the security interest granted pursuant hereto or to enable the Administrative Agent to exercise and enforce its rights hereunder with respect to such security interest, and without limiting the foregoing, shall:

(a) if any of the Pledged Shares, Investment Property or Financial Assets constituting part of the Collateral are received by a Grantor, within five (5) Business Days (i) deliver to the Administrative Agent the certificates or instruments representing or evidencing the same, duly endorsed in blank or accompanied by such instruments of assignment and transfer in such form and substance as the Administrative Agent advises is necessary or reasonably requests, all of which thereafter shall be held by the Administrative Agent, pursuant to the terms of this Agreement, as part of the Collateral and (ii) take such other action as the Administrative Agent may reasonably request to duly record or otherwise perfect the security interest created hereunder in such Collateral;

(b) deliver to the Administrative Agent any and all Instruments constituting part of the Collateral (other than any such Instrument or that does not exceed \$500,000 in value at any time, unless the aggregate value of such Instruments or exceeds \$1,000,000), endorsed and/or accompanied by such instruments of assignment and transfer in such form and substance as the Administrative Agent may reasonably request; *provided*, that (other than in the case of the Promissory Notes described in Schedule 3) unless an Event of Default has occurred and is continuing and the Administrative Agent has provided written notice to the Borrower, such Grantor may retain for collection in the ordinary course any Instruments received by such Grantor in the Ordinary Course of Business and the

Administrative Agent shall, promptly upon request of such Grantor, make appropriate arrangements for making any Instrument delivered by such Grantor available to such Grantor for purposes of presentation, collection or renewal (any such arrangement to be effected, to the extent requested by the Administrative Agent, against trust receipt or like document);

(c) promptly from time to time enter into such control agreements, each in form reasonably acceptable to the Administrative Agent, as may be required to perfect the security interest created hereby in any and all Deposit Accounts, Securities Accounts and Commodity Accounts owned by the Obligors (other than Excluded Accounts), and (ii) Investment Property, Electronic Chattel Paper and Letter of Credit Rights (except with respect to Pledged Shares, other than any such property described in this subclause (ii) that does not exceed \$250,000 in value at any time, unless the aggregate value of such property exceeds \$500,000), and will promptly furnish to the Administrative Agent true copies thereof; and

(d) promptly from time to time upon the written request of the Administrative Agent, take such other action as the Administrative Agent may reasonably request to duly record or otherwise perfect the security interest created hereunder in that portion of the Collateral consisting of Intellectual Property.

Section 4.02. Other Financing Statements or Control. Except as otherwise permitted under the Loan Documents, no Grantor shall (a) file or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to any of the Collateral in which the Administrative Agent is not named as the sole secured party (except to the extent that such financing statement or instrument relates to a Permitted Lien), or (b) cause or permit any Person other than the Administrative Agent or any holder of a Permitted Lien to have "control" (as defined in Section 9-104, 9-105, 9-106 or 9-107 of the UCC) of any Deposit Account, Securities Account or Commodity Account (in each case other than Excluded Accounts), Electronic Chattel Paper, Investment Property or Letter of Credit Right constituting part of the Collateral.

Section 4.03. Preservation of Rights. The Administrative Agent shall not be required to take steps necessary to preserve any rights against prior parties to any of the Collateral.

Section 4.04. Special Provisions Relating to Certain Collateral.

(a) *Pledged Shares.* (i) Grantors will cause the Pledged Shares to constitute 100% of the total number of Shares of each Issuer outstanding owned by Grantors.

(ii) Unless an Event of Default has occurred and is continuing and the Administrative Agent has provided written notice to the Borrower, Grantors shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Shares for all purposes, *provided* that Grantors jointly and severally agree that they will not vote the Pledged Shares in any manner that is inconsistent with the terms of this Agreement and the other Loan Documents; and the Administrative Agent shall execute

and deliver to Grantors or cause to be executed and delivered to Grantors all such proxies, powers of attorney, dividend and other orders, and all such instruments, without recourse, as Grantors may reasonably request for the purpose of enabling Grantors to exercise the rights and powers that it is entitled to exercise pursuant to this Section 4.04(a)(ii).

(iii) Unless an Event of Default has occurred and is continuing and the Administrative Agent has provided written notice to the Borrower, Grantors shall be entitled to receive and retain any dividends, distributions or proceeds on the Pledged Shares.

(iv) If an Event of Default has occurred and is continuing and the Administrative Agent has provided written notice to the Borrower, whether or not the Administrative Agent has declared any Secured Obligations due and payable or seeks or pursues any other relief or remedy available to it under applicable law or under this Agreement or the other Loan Documents, all dividends and other distributions on the Pledged Shares shall be paid directly to the Administrative Agent for distribution to the Secured Parties for application of the Secured Obligations in accordance with the Credit Agreement, and, if the Administrative Agent shall so request in writing, Grantors jointly and severally agree to execute and deliver to the Administrative Agent appropriate additional dividend, distribution and other orders and documents to that end, *provided*, that if such Event of Default is no longer continuing, any such dividend or distribution theretofore paid to the Administrative Agent shall, upon request of Grantors (except to the extent theretofore applied to the Secured Obligations), be returned by the Administrative Agent to Grantors.

(b) *Intellectual Property.* (i) Each Grantor hereby grants to the Administrative Agent, solely to the extent assignable, not otherwise prohibited by the documentation governing such Intellectual Property, and not giving rise to any liability to or obligations on such Grantor, a non-exclusive license (exercisable without payment of royalty or other compensation to such Grantor) to use, and the right to assign, license or sublicense, any of the Intellectual Property now owned or hereafter acquired by such Grantor, wherever the same may be located, solely for the purpose of enabling the Administrative Agent, for the benefit of the Administrative Agent and the Secured Parties, to exercise rights and remedies under Section 4.05 at such time as the Administrative Agent shall be lawfully entitled to exercise such rights and remedies after the occurrence and during the continuation of an Event of Default, and for no other purpose. Such license includes reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof.

(ii) Notwithstanding anything contained herein to the contrary, but subject to any provision of the Loan Documents that limits the rights of any Grantor to dispose of its property, unless an Event of Default has occurred and is continuing and the Administrative Agent has provided written notice to the Borrower, Grantors will be permitted to exploit, use, enjoy, protect, defend, enforce, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the Ordinary Course of the Business of Grantors. In furtherance of the foregoing, unless an Event of Default has occurred and is continuing, the Administrative Agent shall from time to time, upon the request of the respective Grantor, execute and deliver any instruments, certificates or other documents, in the form so requested, that such Grantor shall have

certified are appropriate in its judgment to allow it to take any action permitted above (including relinquishment of the license provided pursuant to Section 4.04(b)(i) as to any specific Intellectual Property). Further, upon the payment in full of all of the Secured Obligations or earlier expiration of this Agreement or release of the Collateral, the license granted by Grantors to the Administrative Agent pursuant to Section 4.04(b)(i) will automatically terminate without any further action by any party hereto. The exercise of rights and remedies under Section 4.05 by the Administrative Agent shall not terminate the rights of the holders of any licenses, covenants not to sue or sublicenses theretofore granted by Grantors in accordance with the first sentence of this Section 4.04(b)(ii).

(c) *Chattel Paper*: Grantors will deliver to the Administrative Agent each original of each item of Chattel Paper at any time constituting part of the Collateral (other than any such Chattel Paper that does not exceed \$500,000 in value at any time, unless the aggregate value of such Chattel Paper exceeds \$1,000,000).

Section 4.05. Remedies.

(a) *Rights and Remedies Generally upon Event of Default*. If an Event of Default has occurred and is continuing, the Administrative Agent on behalf of the Secured Parties shall have all of the rights and remedies with respect to the Collateral of a secured party under the UCC (whether or not the UCC is in effect in the jurisdiction where the rights and remedies are asserted) and such additional rights and remedies to which a secured party is entitled under the Law in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including the right, to the fullest extent permitted by Law, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Administrative Agent was the sole and absolute owner thereof (and each Grantor agrees to take all such action as may be appropriate to give effect to such right). If an Event of Default has occurred and is continuing, the Administrative Agent may exercise, on behalf of all of the Secured Parties, such rights and remedies described above; and without limiting the foregoing:

(i) the Administrative Agent may, in its name or in the name of any Grantor or otherwise, demand, sue for, collect or receive any money or other property at any time payable or receivable on account of or in exchange for any of the Collateral, but shall be under no obligation to do so;

(ii) the Administrative Agent may make any reasonable compromise or settlement deemed desirable with respect to any of the Collateral and may extend the time of payment, arrange for payment in installments, or otherwise modify the terms of, any of the Collateral;

(iii) the Administrative Agent may require Grantors to notify (and each Grantor hereby authorizes the Administrative Agent to so notify) each account debtor in respect of any Account, Chattel Paper or General Intangible, and each obligor on any Instrument, constituting part of the Collateral that such Collateral has been assigned to the Administrative Agent hereunder, and to instruct that any payments due or to become due in respect of such Collateral shall be made directly to the Administrative Agent or as it may

direct (and if any such payments, or any other Proceeds of Collateral, are received by any Grantor they shall be held in trust by such Grantor for the benefit of the Administrative Agent and as promptly as possible remitted or delivered to the Administrative Agent for application as provided herein);

(iv) the Administrative Agent may require Grantors to use commercially reasonable efforts to assemble the Collateral at such place or places, convenient to the Administrative Agent and Grantors, as the Administrative Agent may direct;

(v) subject to Section 4.04(a), the Administrative Agent may vote the Pledged Shares with respect to any and all matters and to exercise all of a Grantor's rights to payments, conversion, exchange, subscription or otherwise with respect to such Pledged Shares;

(vi) subject to Section 4.04(a) the Administrative Agent may require Grantors to cause the Pledged Shares to be transferred of record into the name of the Administrative Agent or its nominee (and the Administrative Agent agrees that if any of such Pledged Shares is transferred into its name or the name of its nominee, the Administrative Agent will thereafter promptly give to the respective Grantor copies of any notices and communications received by it with respect to such Pledged Shares);

(vii) the Administrative Agent may sell, lease, assign or otherwise dispose of all or any part of the Collateral, at such place or places as the Administrative Agent deems best, and for cash or for credit or for future delivery (without thereby assuming any credit risk), at public or private sale, without demand of performance or notice of intention to effect any such disposition or of the time or place thereof (except such notice as is required by the UCC or other applicable statute and cannot be waived), and the Secured Parties, the Administrative Agent or anyone else may be the purchaser, lessee, assignee or recipient of any or all of the Collateral so disposed of at any public sale (or, to the extent permitted by law, at any private sale) and thereafter hold the same absolutely, free from any claim or right of whatsoever kind, including any right or equity of redemption (statutory or otherwise), of Grantors, any such demand, notice and right or equity being hereby expressly waived and released, in each case, as the Administrative Agent may deem commercially reasonable, to the fullest extent permitted by applicable law. In the event of any sale, assignment, or other disposition of any of the Collateral consisting of Trademarks, the goodwill connected with and symbolized by the Trademarks subject to such disposition shall be included. The Administrative Agent may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the sale may be so adjourned;

(viii) the Administrative Agent may deliver notices of control in accordance with the terms of the applicable account control agreements entered into pursuant to Section 4.01(c) with respect to any Collateral held in a Deposit Account, Securities Account or Commodities Account; and

(ix) the Proceeds of each collection, sale or other disposition under this Section 4.05, including by virtue of the exercise of any license granted to the Administrative Agent in Section 4.04(b), shall be applied in accordance with Section 4.08.

(b) *Certain Securities Act Limitations.* Grantors recognize that, by reason of certain prohibitions contained in the Securities Act of 1933, as amended, and applicable state securities laws, the Administrative Agent may be compelled, with respect to any sale of all or any part of the Collateral, to limit purchasers to those who will agree, among other things, to acquire the Collateral for their own account, for investment and not with a view to the distribution or resale thereof. Grantors acknowledge that any such private sales may be at prices and on terms less favorable to the Administrative Agent than those obtainable through a public sale without such restrictions, and, notwithstanding such circumstances, agree that any such private sale shall be deemed to have been made in a commercially reasonable manner and that the Administrative Agent shall have no obligation to engage in public sales and no obligation to delay the sale of any Collateral for the period of time necessary to permit the issuer thereof to register it for public sale. To the extent permitted by applicable law, upon any such sale or sales of the Pledged Shares so purchased shall be held by the purchaser absolutely free from any claims or rights of whatsoever kind or nature, including any equity of redemption or any similar rights, all such equity of redemption and any similar rights being hereby expressly waived and released by the applicable Grantor thereof to the extent permitted by applicable law. In the event any consent, approval or authorization of any governmental agency shall be necessary to effectuate any such sale or sales, each Grantor shall execute, and hereby agrees to cause the issuer of any Pledged Shares to execute, as necessary, all applications or other instruments as may be required; *provided* that the foregoing shall not obligate any Grantor to register the Pledged Shares under the Securities Act of 1933. The Administrative Agent shall incur no liability as a result of the sale of the Collateral, or any part thereof, at any private sale pursuant to this Section 4.05 conducted in a commercially reasonable manner. Each Grantor hereby waives any claims against the Administrative Agent, the Secured Parties or any of them arising by reason of the fact that the price at which the Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Administrative Agent accepts the first offer received and does not offer the Collateral to more than one offeree.

(c) *Notice.* Grantors agree that to the extent the Administrative Agent is required by applicable law to give reasonable prior notice of any sale or other disposition of any Collateral, ten (10) days' notice shall be deemed to constitute reasonable prior notice.

(d) *No Assumption of Obligations.* Notwithstanding any provision in this Agreement or any other Loan Document to the contrary, the Administrative Agent is not assuming any liability or obligation of any Grantor or any of its Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter. All such liabilities and obligations shall be retained by and remain obligations and liabilities of the applicable Grantor and/or its Affiliates, as the case may be. Without limiting the foregoing, the Administrative Agent is not assuming and shall not be responsible for any liabilities or Claims of any Grantor or its Affiliates, whether present or future, absolute or contingent and whether or not relating to a Grantor, the Obligor Intellectual Property and/or the Material Agreements, and each Grantor shall indemnify and save harmless the

Administrative Agent from and against all such liabilities, Claims and Liens, to the extent set forth in Section 13.03(b) of the Credit Agreement.

Section 4.06. Deficiency. If the proceeds of sale, collection or other realization of or upon the Collateral pursuant to Section 4.05 are insufficient to cover the costs and expenses of such realization and the payment in full in cash of the Secured Obligations, Grantors shall remain liable for any deficiency.

Section 4.07. Locations; Names, Etc. No Grantor shall (i) change its location (as defined in Section 9-307 of the UCC), or (ii) change its name from the name shown as its current legal name on Schedule 1, unless in each case ten (10) days' prior written notice shall have been given to the Administrative Agent (or such shorter period as may be acceptable to the Administrative Agent in its sole discretion).

Section 4.08. Application of Proceeds. The Proceeds of any collection, sale or other realization of all or any part of the Collateral pursuant hereto, and any other cash at the time held by Administrative Agent under this Section 4, shall be applied by the Administrative Agent in accordance with Section 4.01(c) of the Credit Agreement.

Section 4.09. Attorney in Fact and Proxy. Without limiting any rights or powers granted by this Agreement to the Administrative Agent on behalf of the Secured Parties, the Administrative Agent (and any of its officers, employees or agents) hereby is appointed the attorney in fact and proxy of each Grantor for the purpose of carrying out the provisions of this Section 4 and taking any action and executing any instruments that the Administrative Agent may deem necessary or advisable to accomplish the purposes hereof. THIS POWER AND PROXY IS COUPLED WITH AN INTEREST AND IS IRREVOCABLE UNTIL THE PAYMENT IN FULL OF THE SECURED OBLIGATIONS. THIS POWER AND PROXY SHALL BE EFFECTIVE AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION BY ANY PERSON. Each Grantor ratifies all actions taken by the Administrative Agent pursuant to this power and proxy granted. All prior proxies granted by any Grantor with respect to the subject matter hereof are hereby revoked. Without limiting the generality of the foregoing, so long as the Administrative Agent shall be entitled under this Section 4 to make collections in respect of the Collateral, the Administrative Agent shall have the right and power to receive, endorse and collect all checks made payable to the order of any Grantor representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same. Notwithstanding anything to the contrary contained herein, the Secured Parties agree not to exercise any rights under the power of attorney and proxy provided for herein unless an Event of Default has occurred and is continuing.

(b) Subject to terms and provisions of this Agreement, each Grantor, being the sole holder and owner of the Pledged Shares, hereby authorizes the Administrative Agent, for itself and for the benefit of the Lenders, during the continuance of an Event of Default and upon written notice to the Borrower, to vote for such Grantor, as Grantor's proxy, at any and all meetings of the members of the issuer(s) of the Pledged Shares, and, as such Grantor's proxy, to consent or dissent to any action taken without a meeting, and further makes, constitutes and irrevocably appoints the Administrative Agent, for itself and for the benefit of the Lenders, to act as the true and lawful

proxy and attorney-in-fact in the name and on behalf of such Grantor, with full power to appoint a substitute or substitutes, to vote and execute and deliver written voting consents with respect to the Pledged Shares, to the same extent and with the same effect as such Grantor could do under any applicable laws or regulations governing the rights and powers of members or holders of equity interests of the applicable issuer(s) of the Pledged Shares.

Section 4.10. Perfection and Recordation. Each Grantor authorizes the Administrative Agent to file UCC financing statements describing the Collateral as “all assets”, “all personal property and fixtures” or “all assets of the debtor, whether tangible or intangible, wherever located, and whether now owned or hereafter acquired and whether now existing or hereafter coming into existence, including all accessions thereto and products and proceeds thereof” of such Grantor or words of similar effect or being of an equal or lesser scope or with greater detail (*provided* that no such description shall be deemed to modify the description of Collateral set forth in Section 3).

Section 4.11. Termination. When all Secured Obligations (other than the Warrant Obligations and all contingent indemnification obligations for which no claim has been made or other obligations which, by their terms, survive termination of the Credit Agreement or other Loan Documents), shall have been paid in full in cash, this Agreement automatically shall terminate, and the Administrative Agent shall, upon request of Grantors, promptly cause to be assigned, transferred and delivered any remaining Collateral and money received in respect thereof, to or on the order of the respective Grantor and to be released and canceled all licenses and rights referred to in Section 4.04(b), in each case, at Grantors’ sole expense. The Administrative Agent shall also, at the expense of such Grantor, promptly execute and deliver to such Grantor upon such termination such UCC termination statements, certificates for terminating the liens on the intellectual property filings and such other documentation as shall be reasonably requested by the respective Grantor to effect the termination and release of the liens on the Collateral as required by this Section 4.11 and deliver all possessory Collateral in the Secured Parties’ possession, custody or control to be released to the applicable Grantor (or designee), in each case, at Grantors’ sole expense. If any of the Collateral shall be sold, transferred or otherwise disposed of by a Grantor in a transaction permitted by the Credit Agreement or if such Collateral otherwise becomes Excluded Assets, then the Administrative Agent, at Grantors’ sole expense, shall execute and deliver to such Grantor all releases or other documents reasonably necessary or desirable for the release of the Liens created hereby on such Collateral.

Section 4.12. Further Assurances. Each Grantor agrees that, from time to time upon the written request of the Administrative Agent, such Grantor will execute and deliver such further documents and do such other acts and things as the Administrative Agent may reasonably request in order to fully effectuate the purposes and objectives of this Agreement, in all cases subject to the terms of the Credit Agreement and excluding such documents, acts and things where the cost of obtaining or perfecting a security interest exceeds the practical benefit to the Lenders afforded thereby as reasonably determined by the Administrative Agent (in its sole discretion after consultation with the Borrower or the applicable Grantor). The Administrative Agent shall release any Lien covering any asset that has been disposed of in accordance with Section 4.11 and the other provisions of the Loan Documents.

SECTION 5. MISCELLANEOUS

Section 5.01. Notices. All notices, requests, consents and demands hereunder shall be delivered in accordance with Section 13.02 of the Credit Agreement.

Section 5.02. No Waiver. No failure on the part of the Administrative Agent to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Administrative Agent of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

Section 5.03. Amendments, Etc. The terms of this Agreement may be waived, altered or amended only by an instrument in writing duly executed by each Grantor, the Administrative Agent and the Majority Lenders (unless the consent of each Lender is required in accordance with Section 13.04 of the Credit Agreement).

Section 5.04. Expenses.

(a) Grantors shall pay or reimburse the Administrative Agent and the Secured Parties for costs and expenses in accordance with Section 13.03(a) of the Credit Agreement.

(b) Grantors shall hereby indemnify the Administrative Agent, the Secured Parties, their Affiliates, and their respective directors, officers, employees, attorneys, agents, advisors and controlling parties in accordance with Section 13.03(b) of the Credit Agreement.

Section 5.05. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of each Grantor, the Administrative Agent and the Secured Parties (*provided*, that no Grantor shall assign or transfer its rights or obligations hereunder unless consented to in writing by the Lenders).

Section 5.06. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission, electronic transmission (in PDF format) or DocuSign shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 5.07. Governing Law; Submission to Jurisdiction; Etc. THIS AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING CHOICE OF LAW AND VENUE,

JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTIONS 13.09, 13.10 AND 13.11 OF THE CREDIT AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.

Section 5.08. Service of Process. EACH PARTY TO THIS AGREEMENT IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 5.01. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 5.09. Captions. The table of contents, captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 5.10. Agents and Attorneys in Fact. The Administrative Agent may employ agents and attorneys in fact in connection herewith and shall not be responsible for the negligence or misconduct of any such agents or attorneys in fact selected by it in good faith.

Section 5.11. Severability. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

Section 5.12. Additional Grantors. Additional Persons may from time to time after the date of this Agreement become Grantors under this Agreement by executing and delivering to the Administrative Agent a supplemental agreement (together with all schedules thereto, a “*Joinder*”) to this Agreement, in substantially the form attached hereto as Exhibit A. Accordingly, upon the execution and delivery of any such Joinder by any such Person, such Person shall automatically and immediately, and without any further action on the part of any Person, become a “Grantor” under and for all purposes of this Agreement, and each of the Schedules hereto shall be supplemented in the manner specified in such Joinder. In addition, upon the execution and delivery of any such Joinder, the new Grantor makes the representations and warranties set forth in Section 2, except to the extent that such representation or warranty expressly relates to an earlier date (in which case such representation or warranty shall be made as of such earlier date).

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be duly executed and delivered as of the day and year first above written.

GRANTOR:

EXAGEN INC.

By: /s/ Jeffrey Black

Name: Jeffrey Black

Title: Chief Financial Officer

SIGNATURE PAGE
SECURITY AGREEMENT

ADMINISTRATIVE AGENT:

PERCEPTIVE CREDIT HOLDINGS IV, LP

By: Perceptive Credit Opportunities GP, LLC,
its general partner

By: /s/ Sandeep Dixit

Name: Sandeep Dixit
Title: Chief Credit Officer

By: /s/ Sam Chawla

Name: Sam Chawla
Title: Portfolio Manager

SIGNATURE PAGE
SECURITY AGREEMENT

EXHIBIT A
TO SECURITY AGREEMENT
FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT (this “*Joinder*”) dated as of [_____, ____] is by [NAME OF ADDITIONAL GRANTOR], a [_____] [_____] (the “*Additional Grantor*”), in favor of PERCEPTIVE CREDIT HOLDINGS IV, LP, a Delaware limited partnership, as administrative agent (in such capacity, the “*Administrative Agent*”) for the Secured Parties.

A. Reference is made to (i) the Credit Agreement and Guaranty (as amended, supplemented, restated, amended and restated, extended, renewed or replaced from time to time, the “*Credit Agreement*”), dated as of April 25, 2025, among EXAGEN INC., a Delaware corporation (the “*Borrower*”), certain guarantors party thereto, certain lenders party thereto and the Administrative Agent, and (ii) the Security Agreement (as amended, supplemented, restated, amended and restated, extended, renewed or replaced from time to time, the “*Security Agreement*”; capitalized terms used herein but not defined shall have the meaning ascribed to such terms therein), dated as of April 25, 2025, among the Borrower, certain grantors party thereto from time to time and the Administrative Agent.

B. Section 5.12 of the Security Agreement provides that additional Persons may from time to time after the date of the Security Agreement become Grantors under the Security Agreement by executing and delivering to the Administrative Agent a supplemental agreement to the Security Agreement in the form of this Joinder.

C. To induce the Secured Parties to maintain the term loans pursuant to the Credit Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Additional Grantor has agreed to execute and deliver to the Administrative Agent (i) a Guarantee Assumption Agreement under the Credit Agreement, and (ii) this Joinder.

The Additional Grantor hereby agrees to become a “Grantor” for all purposes of the Security Agreement (and hereby supplements each of the Schedules to the Security Agreement in the manner specified in Appendix A hereto). Without limitation, as collateral security for the payment in full when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, the Additional Grantor hereby pledges and grants to the Administrative Agent, for the benefit of the Secured Parties, as provided in Section 3 of the Security Agreement a security interest in all of the Additional Grantor’s right, title and interest in, to and under the Collateral of the Additional Grantor, in each case whether tangible or intangible, wherever located, and whether now owned by the Additional Grantor or hereafter acquired and whether now existing or hereafter coming into existence. In addition, subject to the Schedules attached hereto, the Additional Grantor hereby makes the representations and warranties set forth in Section 2 of the Security Agreement, with respect to itself and its obligations under this Joinder, as if each reference in such Sections to the Loan Documents included reference to this Joinder, except to the extent that such

representation or warranty expressly relates to an earlier date (in which case such representation or warranty shall be made as of such earlier date).

[SIGNATURE PAGES FOLLOW]

Exhibit A-2

IN WITNESS WHEREOF, the Additional Grantor has caused this Joinder Agreement to be duly executed and delivered as of the day and year first above written.

[INSERT NAME OF ADDITIONAL GRANTOR],
as Grantor

By: _____
Name:
Title:

Exhibit A-3

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

By: Perceptive Credit Opportunities GP, LLC, its
general partner

By: _____
Name:
Title:

By: _____
Name:
Title:

Exhibit A-4

APPENDIX A
TO JOINDER AGREEMENT
SUPPLEMENTAL SCHEDULES TO SECURITY AGREEMENT

See attached.

Exhibit A-5

SCHEDULE 1

Certain Grantor Information

Schedules to Security Agreement

SCHEDULE 2
Pledged Shares

None.

Schedules to Security Agreement

SCHEDULE 3

Promissory Notes

Schedules to Security Agreement

SCHEDULE 4

Copyrights, Copyright Registrations and Applications for Copyright Registrations

Schedules to Security Agreement

SCHEDULE 5

Patents and Patent Applications

Schedules to Security Agreement

SCHEDULE 6

**Trade Names, Trademarks, Services Marks, Trademark and Service Mark Registrations
and Applications for Trademark and Service Mark Registrations**

Schedules to Security Agreement

SCHEDULE 7

Deposit Accounts, Securities Accounts and Commodity Accounts

Schedules to Security Agreement

SCHEDULE 8

Commercial Tort Claims

Schedules to Security Agreement



**Exagen Inc. Announces Senior Secured Credit Facility with Perceptive Advisors
\$25 Million Funded at Close to Refinance Existing Debt and Extend Maturity
Additional Borrowing Capacity Provides Minimally Dilutive Growth Capital**

April 28, 2025

Carlsbad, Calif., – Exagen Inc. (Nasdaq: XGN), a leading provider of autoimmune testing solutions, today announced it has entered into an agreement with Perceptive Advisors LLC for a term loan credit facility of up to \$75 million, with \$25 million funded at closing to retire an existing debt facility and strengthen the balance sheet.

“I’m pleased to announce our new debt facility with Perceptive Advisors, a highly respected life sciences investor with a deep understanding of our industry. This strategic partnership extends our amortization timeline, strengthens our balance sheet and provides optionality to accelerate future growth initiatives with access to minimally dilutive capital,” said John Aballi, President and Chief Executive Officer.

“We are excited to partner with Exagen and its management team on their journey to accelerate personalized medicine in autoimmune disease,” said Sam Chawla, Portfolio Manager at Perceptive Advisors. “The Company has a proven track record of advancing diagnoses and providing clinical benefits, and we believe this transaction further enables Exagen to build its leadership position and empower rheumatologists and other healthcare practitioners to greatly enhance patient care.”

On April 25, 2025, Exagen entered into a credit and guaranty agreement pursuant to which Perceptive has agreed to make certain term loans in the aggregate principal amount of up to \$75 million. The first \$25 million tranche was funded at close and used to retire Exagen’s existing term debt facility with Innovatus Capital Partners.

Additional tranches are available at Exagen’s election, as follows:

- Second Tranche - \$10 million available through March 31, 2026, upon and subject to achievement of certain revenue milestones.

- Third Tranche - \$10 million available through December 31, 2026, upon and subject to achievement of certain revenue milestones.
- Business Development Tranche - \$30 million available through March 31, 2027, to be funded at the discretion of Perceptive for the Company's business development initiatives.

Interest under the credit agreement is Term SOFR + 7%, with a SOFR floor of 4.75%. Exagen will make interest-only payments for 60 months, with the entire outstanding interest and principal amount due and payable upon maturity. The loan is secured by substantially all of Exagen's assets.

In connection with the initial close, Exagen issued to Perceptive a warrant to purchase 400,000 shares of Exagen common stock, of which 200,000 shares are exercisable at an exercise price of \$4.96 per share, equal to the 10-day VWAP immediately prior to the close, and 200,000 are exercisable at an exercise price of \$5.58 per share, equal to the 10-day VWAP immediately prior to the close, plus twelve and one-half percent (12.5%)

An additional up to 750,000 warrants may be issued to Perceptive as follows:

- 150,000 shares with the closing of each of the Second and Third tranches, and
- 450,000 shares with the closing of the Business Development Tranche

The per-share exercise price for 50% of each tranche's shares will be equal to the 10-day VWAP ending on the business day immediately preceding each tranche's funding date. The per-share exercise price for the balance of each tranche's warrants will be equal to the 10-day VWAP immediately preceding the funding date, plus twelve and one-half percent (12.5%) of the 10-day VWAP immediately preceding each tranche's funding date.

Credo 180, Inc. acted as sole financial advisor to Exagen on this transaction.

Additional details regarding the financing will be included on a Form 8-K, which Exagen will file with the Securities and Exchange Commission within four business days of the closing of the credit agreement.

About Exagen

Exagen Inc. (Nasdaq: XGN) is a leading provider of autoimmune diagnostics, committed to transforming care for patients with chronic and debilitating autoimmune conditions. Based in San Diego County, California, Exagen's mission is to provide clarity in autoimmune disease decision making and improve clinical outcomes through its innovative testing portfolio. The Company's flagship product, AVISE® CTD, enables clinicians to more effectively diagnose complex autoimmune conditions such as lupus, rheumatoid arthritis, and Sjögren's syndrome earlier and with greater accuracy. Exagen's laboratory specializes in the testing of rheumatic diseases, delivering precise and timely results, supported by a full suite of AVISE®-branded tests for disease diagnosis, prognosis, and monitoring. With a focus on research,

innovation, education, and patient-centered care, Exagen is dedicated to addressing the ongoing challenges of autoimmune disease management.

For more information, please visit [Exagen.com](https://www.exagen.com) or follow [@ExagenInc](https://twitter.com/ExagenInc) on X (formally known as Twitter).

Forward Looking Statements

Exagen cautions you that statements contained in this press release regarding matters that are not historical facts are forward-looking statements. These statements are based on Exagen's current beliefs and expectations. Such forward-looking statements include, but are not limited to, statements regarding: the potential advantages to the Company of entering into the credit agreement; the potential funding of future tranches pursuant to the credit agreement that are subject to conditions and milestones that may not occur; evaluations and judgements regarding past and future performance; and the potential utility and effectiveness of Exagen's services and testing solutions. The inclusion of forward-looking statements should not be regarded as a representation by Exagen that any of its plans will be achieved. Actual results may differ from those set forth in this press release due to the risks and uncertainties inherent in Exagen's business, including, without limitation: delays in reimbursement and coverage decisions from Medicare and third-party payors and in interactions with regulatory authorities, and delays in ongoing and planned clinical trials involving its tests; and changes in laws and regulations related to Exagen's regulatory requirements. Exagen's commercial success depends upon attaining and maintaining significant market acceptance of its testing products among rheumatologists, patients, third-party payors and others in the medical community; Exagen's ability to successfully execute on its business strategies; third-party payors not providing coverage and adequate reimbursement for Exagen's testing products, including Exagen's ability to collect on funds due; Exagen's ability to obtain and maintain intellectual property protection for its testing products; regulatory developments affecting Exagen's business; and other risks described in Exagen's prior press releases and Exagen's filings with the Securities and Exchange Commission ("SEC"), including under the heading "Risk Factors" in Exagen's Annual Report on Form 10-K for the year ended December 31, 2024, filed with the SEC on March 11, 2025 and any subsequent filings with the SEC. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof, and Exagen undertakes no obligation to update such statements to reflect events that occur or circumstances that exist after the date hereof. All forward-looking statements are qualified in their entirety by this cautionary statement, which is made under the safe harbor provisions of the Private Securities Litigation Reform Act of 1995.

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