

**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

November 16, 2022

Date of Report (Date of earliest event reported)

Biodesix, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39659
(Commission
File Number)

20-3986492
(I.R.S. Employer
Identification No.)

2970 Wilderness Place, Suite 100
Boulder, Colorado
(Address of Principal Executive Office)

80301
(Zip Code)

Registrant's telephone number, including area code: **(303) 417-0500**

Not Applicable

(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 communication 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 communication pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communication 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 of \$0.001 per share | BDSX | The Nasdaq Stock Market LLC |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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.

Summary

On November 21, 2022, Biodesix, Inc. (the Company) funded and/or closed various financing transactions, including: (i) a term loan facility for up to \$50.0 million, with funding of \$30.0 million and the issuance of warrants exercisable into 3,000,000 shares of the Company's common stock, par value \$0.001 per share (the Common Stock) occurring on November 21, 2022 (the Funding Date), and two additional tranches of \$10.0 million each subject to certain terms and conditions, including revenue milestones, (ii) a follow on equity offering of common stock and (iii) a subscription agreement for the issuance of common stock to certain members of the Company's management team. Collectively, the Company raised gross proceeds of approximately \$70.7 million (\$65.8 million after deducting commissions, fees and estimated expenses payable). Approximately \$24.0 million of the net proceeds were used to retire outstanding debt of the Company and the remaining proceeds of approximately \$41.8 million will be used for commercial expansion of sales, supporting the Company's product pipeline, research and development and for general corporate purposes. The following sections will provide a more detailed description of each of the transactions described above. Each of the strategic initiatives described above is detailed further below.

Perceptive Term Loan Facility Overview

On November 16, 2022 (the Closing Date), the Company entered into a Credit Agreement and Guaranty (the Credit Agreement) with Perceptive Credit Holdings IV, LP as the lender and administrative agent (the Lender). The Credit Agreement provides for a senior secured delayed draw term loan facility with Perceptive Advisors LLC (Perceptive), in an aggregate principal amount of up to \$50.0 million (the Perceptive Term Loan Facility). The initial funding of the Perceptive Term Loan Facility was subject to a capital raise of at least \$30.0 million in gross proceeds from an equity offering of the Company's common stock. On the Funding Date, the Company raised approximately \$40.3 million in gross proceeds from the sale of common stock (see "Public Offering and Subscription Agreements" below, together the Equity Offerings). The Tranche A Loan, in an aggregate amount of up to \$30.0 million (the Tranche A Loan), was funded under the Perceptive Term Loan Facility substantially concurrently with the closing of the Equity Offerings on the Funding Date. In addition to the Tranche A Loan, the Perceptive Term Loan Facility includes an additional Tranche B Loan, in an aggregate amount of up to \$10.0 million, and an additional Tranche C Loan, in an aggregate amount of up to \$10.0 million, which will be accessible by the Company so long as the Company satisfies certain customary conditions precedent, including revenue milestones. The Perceptive Term Loan Facility has a maturity date of November 21, 2027 (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 \$27.9 million, after deducting estimated debt issuance costs and expenses.

Substantially concurrently with the completion of the Equity Offerings, the Company fully repaid all outstanding principal, accrued and unpaid interest as well as any prepayment and other fees due under the existing \$16.0 million promissory note with Streeterville Capital, LLC (Promissory Note One) and the outstanding principal balance of \$3 million under the term loan under the Loan and Security Agreement with Silicon Valley Bank (the 2021 Term Loan) for an aggregate amount of approximately \$24.0 million.

Interest Rate

The Perceptive Term Loan Facility will accrue interest at an annual rate equal to the greater of (a) forward-looking one-month term SOFR as posted by CME Group Inc. and (b) 3.0% per annum, plus an applicable margin of 9.0%.

Amortization and Prepayment

On the Maturity Date, the Company is required to pay the Lender the aggregate outstanding principal amount underlying the Loan and any accrued and unpaid interest thereon. Prior to the Maturity Date, there will be no scheduled principal payments under the Perceptive Term Loan Facility. The Perceptive Term Loan Facility 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 Warrants

Pursuant to a Security Agreement, dated as of the Funding Date (the Security Agreement), between the Company and the Lender, substantially all of the Company's obligations under the Credit Agreement are secured by a first lien perfected security interest on all of the Company's assets, subject to customary exceptions.

As consideration for the Credit Agreement, the Company has issued, on the Funding Date, a Warrant to Purchase Stock to the Lender (the Warrant) of up to 5,000,000 shares of the Company's common stock, with warrants exercisable into 3,000,000 shares of the Company's common stock issued on the funding date of the Tranche A Loan (the Initial Warrants). The per share exercise price for the Initial Warrants is equal to \$1.0648, which is equal to the lower of (A) the 10-day volume weighted average price (the 10-day VWAP) of the Company's common stock, par value \$0.001 per share (the Common Stock), on the business day immediately prior to the Closing Date of the Tranche A Loan or (B) the public offering price per share of Common Stock of \$1.15. In addition to the Initial Warrants, additional warrants will become exercisable into 1,000,000 shares of common stock concurrently with the borrowing of the Tranche B Loan, and additional warrants will become exercisable into 1,000,000 shares of common stock concurrently with the borrowing of the Tranche C Loan. The per share exercise price for the additional warrants will be equal to the lower of (A) the Initial Warrant exercise price or (B) the 10-day VWAP ending on the business day immediately preceding the funding date of the Tranche B Loan or the Tranche C loan, respectively. Each warrant will be exercisable, in whole or in part, until the 10th anniversary of the applicable date of issuance.

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, Material 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 the Company's business. The negative covenants restrict or limit the ability of the Company 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 its 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 a minimum cash balance of \$2.5 million; and (ii) as of the last day of each fiscal quarter commencing on the fiscal quarter ending March 31, 2023, receive revenue in amounts agreed to between the Company and Perceptive from time to time.

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.

Other Related Matters

The foregoing summaries of the Credit Agreement (including the Perceptive Term Loan Facility thereunder), the Security Agreement and the Warrant (collectively, the Credit Facility Agreements) are not complete and are qualified in their entirety by reference to the Credit Facility Agreements, copies of each of which are filed as exhibits to this Current Report on Form 8-K.

The representations, warranties, and covenants contained in the Credit Facility Agreements were made solely for purposes of such documents and as of specific dates, were made solely for the benefit of the parties to the applicable documents, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures made for the purposes of allocating contractual risk between the parties to the Credit Agreement and such other documents instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to stockholders. The Company's stockholders are not third-party beneficiaries under the Credit Facility Agreements and should not rely on the representations, warranties, and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the Company or any of its affiliates. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Credit Facility Agreements, which subsequent information may or may not be fully reflected in the Company's public disclosure.

Public Offering

On November 21, 2022, the Company closed an underwritten public offering (the Offering) of 35,075,000 shares of its common stock, par value \$0.001 per share (the Shares), including 4,575,000 shares purchased by the underwriter pursuant to an option to purchase additional shares. The Shares were issued and sold pursuant to an underwriting agreement (the Underwriting Agreement), dated November 16, 2022, by and between the Company and William Blair & Company, L.L.C., as sole underwriter, at a public offering price per share of \$1.15. The Company will receive estimated net proceeds of approximately \$37.5 million from the Offering after deducting underwriting discounts and commissions and estimated offering expenses payable by the Company.

The Offering was made pursuant to the Company's effective Registration Statement on Form S-3 (File No. 333-261095) previously filed with the Securities and Exchange Commission on November 29, 2021 and a prospectus supplement, dated November 16, 2022, relating to the Offering. The foregoing is only a brief description of the terms of the Underwriting Agreement, does not purport to be a complete statement of the rights and obligations of the parties under the Underwriting Agreement and the transactions contemplated thereby, and is qualified in its entirety by reference to the Underwriting Agreement that is attached hereto as Exhibit 1.1. A copy of the opinion of Sidley Austin LLP relating to the legality of the issuance and sale of the Shares is attached hereto as Exhibit 5.1.

Subscription Agreements

On November 21, 2022, Biodesix, Inc. entered into subscription agreements (the Subscription Agreements) with certain members of management (the Investors), including the Company's Chief Executive Officer and Chief Financial Officer, for the issuance and sale by the Company of an aggregate of 278,514 shares of the Company's common stock (the Shares) in an offering (the Private Placement). The Subscription Agreement did not include any registration rights and included lock up restrictions that will be in effect during the period ending 90 days subsequent to November 21, 2022.

Pursuant to the Subscription Agreements, the Investors purchased shares at a purchase price (determined in accordance with Nasdaq rules relating to the "Minimum Value" of the Company's common stock) of \$1.15 per share, which is equal to the public offer price in the Public Offering, for an aggregate purchase price of approximately \$320,000. The Subscription Agreements include customary representations, warranties and covenants by the parties to the agreement.

The foregoing description of the Subscription Agreements is not complete and is qualified in its entirety by reference to the full text of the Subscription Agreements, the form of which is filed herewith as Exhibit 10.3 and incorporated herein by reference in its entirety.

Item 1.02. Termination of a Material Definitive Agreement.

On the Funding Date, in connection with initial funding of the Perceptive Term Loan Facility and the Equity Offerings, the Company repaid all outstanding principal and accrued and unpaid interest as well as any prepayment and other fees in the amount of \$18.2 million and \$5.8 million due under the promissory note with Streeterville Capital, LLC (Promissory Note One) and the Loan and Security Agreement with Silicon Valley Bank (the 2021 Term Loan), respectively. Contemporaneously, the Company terminated Promissory Note One, dated May 9, 2022, and the 2021 Term Loan, dated March 16, 2021, as amended. To the extent applicable, the information reported under Item 1.01 above is incorporated into this Item 1.02 by reference.

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

To the extent applicable, the disclosures of the material terms and conditions of the Credit Facility Agreements in Item 1.01 above are incorporated into this Item 2.03 by reference.

Item 3.02. Unregistered Sales of Equity Securities

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 8.01. Other Events.

On November 16, 2022, the Company issued a press release announcing the entry into the Perceptive Term Loan Facility. A copy of the press release is being furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

On November 16, 2022, the Company issued press releases announcing the launch and pricing of the Offering. Copies of the Company's press releases are attached hereto as Exhibits 99.2 and 99.3, respectively, to this Current Report on Form 8-K and are incorporated herein by reference in their entirety.

On November 21, 2022, the Company issued a press release announcing the closing of the Offering. A copy of the Company's press release is attached hereto as Exhibit 99.4 to this Current Report on Form 8-K and is incorporated herein by reference in its entirety.

In accordance with General Instruction B.2 of Form 8-K, the information included in this Item 8.01, including Exhibits 99.1, 99.2, 99.3 and 99.4 hereto, shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference into any filing made by the Company under the Exchange Act or Securities Act of 1933, as amended, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

| No. | Exhibit |
|------------|---|
| 1.1 | Underwriting Agreement, dated November 16, 2022, between Biodesix, Inc. and William Blair & Company, L.L.C. |
| 4.1 | Form of Note, dated November 21, 2022, issued by the Company to Perceptive Credit Holdings IV, LP. (included in Exhibit 10.1) |
| 4.2 | Warrant to Purchase Stock, dated November 21, 2022, issued by the Company to Perceptive Credit Holdings IV, LP. |
| 5.1 | Opinion of Sidley Austin LLP |
| 10.1 | Credit Agreement and Guaranty, dated as of November 16, 2022, by and among the Company and Perceptive Credit Holdings IV, LP. |
| 10.2 | Security Agreement, dated as of November 21, 2022, by and among the Company and Perceptive Credit Holdings IV, LP. |
| 10.3 | Form of Subscription Agreement, dated November 31, 2022 |
| 23.1 | Consent of Sidley Austin LLP (included in Exhibit 5.1) |
| 99.1 | Perceptive Funding Press Release issued by Biodesix, Inc. dated November 16, 2022 |
| 99.2 | Launch Press Release issued by Biodesix, Inc. dated November 16, 2022 |
| 99.3 | Pricing Release issued by Biodesix, Inc. dated November 16, 2022 |
| 99.4 | Closing Release issued by Biodesix, Inc. dated November 21, 2022 |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document) |

SIGNATURE

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.

Dated: November 21, 2022

BIODESIX, INC.

By: /s/ Robin Harper Cowie
Name: Robin Harper Cowie
Title: Chief Financial Officer

30,500,000 Shares

BIODESIX, INC.

COMMON STOCK (PAR VALUE \$0.001 PER SHARE)

UNDERWRITING AGREEMENT

November 16, 2022

November 16, 2022

William Blair & Company, L.L.C.

As Representative of the several Underwriters named in Schedule I hereto

c/o William Blair & Company, L.L.C.
150 N. Riverside Plaza
Chicago, Illinois 60606

Ladies and Gentlemen:

Biodesix, Inc., a Delaware corporation (the “**Company**”), proposes to issue and sell to the several Underwriters named in Schedule I hereto (the “**Underwriters**”), for whom William Blair & Company, L.L.C. is acting as representative (the “**Representative**”), 30,500,000 shares of its Common Stock, \$0.001 par value per share (the “**Firm Shares**”). The Company also proposes to issue and sell to the several Underwriters not more than an additional 4,575,000 shares of its Common Stock, \$0.001 par value per share (the “**Additional Shares**”), if and to the extent that the Representative shall have determined to exercise, on behalf of the Underwriters, the right to purchase such shares of common stock granted to the Underwriters in Section 2 hereof. The Firm Shares and the Additional Shares are hereinafter collectively referred to as the “**Shares**.” The shares of Common Stock, \$0.001 par value per share, of the Company to be outstanding after giving effect to the sales contemplated hereby are hereinafter referred to as the “**Common Stock**.”

The Company has filed with the Securities and Exchange Commission (the “**Commission**”) a registration statement on Form S-3 (File No. 333-261095), including a preliminary prospectus, relating to the Shares. The registration statement as amended at the time it becomes effective, including the information (if any) deemed to be part of the registration statement at the time of effectiveness pursuant to Rule 430A under the Securities Act of 1933, as

amended (the “**Securities Act**”), is hereinafter referred to as the “**Registration Statement**”; the prospectus in the form first used to confirm sales of Shares (or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act) is hereinafter referred to as the “**Prospectus**.” If the Company has filed an abbreviated registration statement to register additional shares of Common Stock pursuant to Rule 462(b) under the Securities Act (a “**Rule 462 Registration Statement**”), then any reference herein to the term “**Registration Statement**” shall be deemed to include such Rule 462 Registration Statement.

For purposes of this Agreement, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, “**preliminary prospectus**” shall mean each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted information pursuant to Rule 430A under the Securities Act that was used after such effectiveness and prior to the execution and delivery of this Agreement, “**Time of Sale Prospectus**” means the preliminary prospectus contained in the Registration Statement at the time of its effectiveness together with the documents and pricing information set forth in Schedule II hereto, and “**broadly available road show**” means a “bona fide electronic road show” as defined in Rule 433(h)(5) under the Securities Act that has been made available without restriction to any person. As used herein, the terms “Registration Statement,” “preliminary prospectus,” “Time of Sale Prospectus” and “Prospectus” shall include the documents, if any, incorporated by reference therein as of the date hereof. The terms “**supplement**,” “**amendment**” and “**amend**” as used herein with respect to the Registration Statement, the Prospectus, the Time of Sale Prospectus or the Prospectus shall include all documents subsequently filed by the Company with the Commission pursuant to the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), that are deemed to be incorporated by reference therein.

1. *Representations and Warranties.* The Company represents and warrants to and agrees with each of the Underwriters that:

(a) The Registration Statement has become effective; no stop order suspending the effectiveness of the Registration Statement is in effect, and no proceedings for such purpose or pursuant to Section 8A under the Securities Act are pending before or, to the Company’s knowledge, threatened by the Commission.

(b) (i) Each document filed pursuant to the Exchange Act and incorporated by reference in the Time of Sale Prospectus or the Prospectus complied when so filed in all material respects with the Exchange Act and the applicable rules and regulations of the Commission thereunder, (ii) the Registration Statement, when it became effective, did not contain and, as amended or supplemented, if applicable, as of the date of such amendment or supplement, will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) the Registration Statement and the Prospectus comply and, as amended or supplemented, if applicable, as of the date of such amendment or supplement, will comply in all material respects with the Securities Act and the applicable rules and regulations of the Commission thereunder, (iv) the Time of Sale Prospectus does not, and at the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers and at the Closing Date (as defined in Section 4), the

Time of Sale Prospectus, as then amended or supplemented by the Company, if applicable, as of the date of such amendment or supplement, will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, (v) each broadly available road show, if any, when considered together with the Time of Sale Prospectus, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading and (vi) the Prospectus, as of its date, does not contain and, as amended or supplemented, if applicable, as of the date of such amendment or supplement, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements or omissions in the Registration Statement, the Time of Sale Prospectus or the Prospectus based upon information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use therein.

(c) The Company is not an “ineligible issuer” in connection with the offering pursuant to Rules 164, 405 and 433 under the Securities Act. Any free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply, as of the date of such filing, in all material respects with the applicable requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder. Except for the free writing prospectuses, if any, identified in Schedule II hereto, and electronic road shows, if any, each furnished to the Underwriters before first use, the Company has not prepared, used or referred to, and will not, without the Representative’s prior consent, prepare, use or refer to, any free writing prospectus.

(d) The Company has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has the corporate power and authority to own or lease its property and to conduct its business as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which the conduct of its business or its ownership or leasing of property requires such qualification, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to singly or in the aggregate, have a material adverse effect on the Company; and the Company does not have any subsidiaries.

(e) This Agreement has been duly authorized, executed and delivered by the Company.

(f) The authorized capital stock of the Company conforms as to legal matters, in all material respects, to the description thereof contained in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(g) The shares of Common Stock outstanding prior to the issuance of the Shares have been duly authorized and are validly issued, fully paid and non-assessable.

(h) The Shares have been duly authorized and, when issued, delivered and paid for in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable, and the issuance of the Shares will not be subject to any preemptive or similar rights that have not been validly waived.

(i) The execution and delivery by the Company of, and the performance by the Company of its obligations under, this Agreement will not contravene (i) any provision of applicable law, (ii) or the certificate of incorporation or by-laws of the Company, (iii) or any agreement or other material instrument binding upon the Company, or (iv) any judgment, order or decree of any governmental body, agency or court having jurisdiction over the Company, except in the case of clauses (i), (iii) and (iv), where such contravention would not reasonably be expected to have a material adverse effect on the Company, and no consent, approval, authorization or order of, or qualification with, any governmental body, agency or court is required for the performance by the Company of its obligations under this Agreement, except such as have been obtained or waived or as may be required by the securities or Blue Sky laws of the various states in connection with the offer and sale of the Shares.

(j) There has not occurred any material adverse change, or any development involving a prospective material adverse change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company, from that set forth in the Time of Sale Prospectus.

(k) There are no legal or governmental proceedings pending or, to the Company's knowledge, threatened to which the Company is a party or to which any of the properties of the Company is subject (i) other than proceedings accurately described in all material respects in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus and proceedings that would not reasonably be expected to, singly or in the aggregate, have a material adverse effect on the Company or on the power or ability of the Company to perform its obligations under this Agreement or to consummate the transactions contemplated by each of the Registration Statement, the Time of Sale Prospectus and the Prospectus or (ii) that are required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus and are not so described in all material respects; and there are no statutes, regulations, contracts or other documents that are required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus or to be filed as exhibits to the Registration Statement that are not described in all material respects or filed as required.

(l) Each preliminary prospectus filed as part of the Registration Statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 under

the Securities Act, complied when so filed in all material respects with the applicable requirements of the Securities Act and the applicable rules and regulations of the Commission thereunder.

(m) The Company is not, and after giving effect to the offering and sale of the Shares and the application of the proceeds thereof as described in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

(n) (i) The Company (w) is, and has been, in compliance with any and all applicable foreign, federal, state and local laws, rules, orders, consents and regulations relating to the protection of health and human safety, the environment, natural resources, and hazardous or toxic substances, wastes, chemicals, pollutants or contaminants (“**Environmental Laws**”), (x) have received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses, (y) are in compliance with all terms and conditions of any such permit, license or approval and (z) have not received notices of, and have no knowledge of any event or condition that would reasonably be expected to result in, any actual or potential liability or violation, and is not subject to any pending or to the Company’s knowledge, threatened action, suit, proceeding, investigation or claim, arising under or relating to any Environmental Law, except where such noncompliance with Environmental Laws, failure to receive required permits, licenses or other approvals, failure to comply with the terms and conditions of such permits, licenses or approvals, or notice, action, suit, proceeding, investigation or claim would not, singularly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, (ii) there are no costs (including anticipated capital expenditures), obligations or liabilities associated with or arising under Environmental Laws of or relating to the Company and (iii) except as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, (y) there are no proceedings pending, or to the Company’s knowledge, contemplated, against the Company under Environmental Laws in which a government authority is also a party, other than such proceedings which it is reasonably believed no monetary sanctions of \$100,000 or more will be imposed and (z) the Company is not aware of any facts or issues regarding compliance with Environmental Laws that could reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company.

(o) There are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Securities Act with respect to any securities of the Company or to require the Company to include such securities with the Shares registered pursuant to the Registration Statement, except as has been validly waived or complied with in connection with the issuance and sale of the Shares contemplated hereby.

(p) (i) None of the Company, or any director, officer, or employee thereof, or, to the Company’s knowledge, any affiliate, agent or representative of the Company, has taken or will take any action in furtherance of an offer, payment, promise to pay, or authorization or approval of the payment, giving or receipt of money, property, gifts or

anything else of value, directly or indirectly, to any government official (including any officer or employee of a government or government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) (“**Government Official**”) in order to influence official action, or to any person in violation of any applicable anti-corruption laws; (ii) the Company has conducted its business in compliance with applicable anti-corruption laws and has instituted and maintained and will continue to maintain policies and procedures reasonably designed to promote and achieve compliance with such laws and with the representations and warranties contained herein; and (iii) the Company will not use, directly or indirectly, the proceeds of the offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any applicable anti-corruption laws.

(q) The operations of the Company are and have been conducted at all times in material compliance with all applicable financial recordkeeping and reporting requirements, including those of the Bank Secrecy Act, as amended by Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), and the applicable anti-money laundering statutes of jurisdictions where the Company conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Anti-Money Laundering Laws**”), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(r) (i) None of the Company, or any director, officer, or employee thereof, or, to the Company’s knowledge, any agent, affiliate or representative of the Company, is an individual or entity (“**Person**”) that is, or is owned or controlled by one or more Persons that are:

(A) the subject of any sanctions administered or enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury (“**HMT**”), or other relevant sanctions authority (collectively, “**Sanctions**”), or

(B) located, organized or resident in a country or territory that is the subject of Sanctions (including, without limitation, Cuba, Iran, North Korea, Syria, the so-called Donetsk People’s Republic, the so-called Luhansk People’s Republic, any other Covered Region of Ukraine identified pursuant to Executive Order 14065 and the Crimea Region).

(ii) The Company will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any joint venture partner or other Person:

(A) to fund or facilitate any activities or business of or with any Person or in any country or territory that, at the time of such funding or facilitation, is the subject of Sanctions; or

(B) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the offering, whether as underwriter, advisor, investor or otherwise).

(iii) For the past 5 years, the Company has not knowingly engaged in, is not now knowingly engaged in, and will not engage in, any dealings or transactions with any Person, or in any country or territory, that at the time of the dealing or transaction is or was the subject of Sanctions.

(s) Subsequent to the respective dates as of which information is given in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, (i) the Company has not incurred any material liability or obligation, direct or contingent, nor entered into any material transaction; (ii) the Company has not purchased any of its outstanding capital stock, nor declared, paid or otherwise made any dividend or distribution of any kind on its capital stock other than ordinary and customary dividends; and (iii) there has not been any material change in the capital stock, short-term debt or long-term debt of the Company.

(t) The Company has good and marketable title to all real property and good and marketable title to all personal property owned by them which is material to the business of the Company, free and clear of all liens, encumbrances and defects except such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company; and any real property and buildings held under lease by the Company is held under valid, subsisting and enforceable leases with such exceptions as are not material and would not reasonably be expected to materially interfere with the use made and proposed to be made of such property and buildings by the Company.

(u) (i) The Company solely and exclusively owns or has a valid and enforceable license or right to use all patents, inventions, copyrights, know how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names and all other intellectual property and similar proprietary rights (including all registrations and applications for registration of, and all goodwill associated with, any of the foregoing, as applicable) (collectively, “**Intellectual Property Rights**”) used in or reasonably necessary to conduct its business; (ii) the Intellectual Property Rights owned by the Company and, to the Company’s knowledge, the Intellectual Property Rights licensed to the Company, are valid, subsisting and enforceable, and there is no material pending or, to the Company’s knowledge, threatened action, suit, proceeding or claim by others challenging the validity, scope or enforceability of any such Intellectual Property Rights; (iii) the Company has not received any written notice alleging any material infringement, misappropriation or other violation of Intellectual Property Rights; (iv) to the Company’s knowledge, no third party is infringing, misappropriating or otherwise violating, or has infringed, misappropriated or

otherwise violated, any Intellectual Property Rights owned or licensed by the Company; (v) the Company does not infringe, misappropriate or otherwise violate, nor has infringed, misappropriated or otherwise violated, any Intellectual Property Rights; (vi) all employees or contractors engaged in the development of Intellectual Property Rights on behalf of the Company have executed an invention assignment agreement whereby such employees or contractors presently assign all of their right, title and interest in and to such Intellectual Property Rights to the Company, and to the Company's knowledge no such agreement has been breached or violated; and (vii) the Company uses, and has used, commercially reasonable efforts to appropriately maintain all information intended to be maintained as a trade secret.

(v) (i) The Company uses and has used any and all software and other materials distributed under a "free," "open source," or similar licensing model (including but not limited to the MIT License, Apache License, GNU General Public License, GNU Lesser General Public License and GNU Affero General Public License) ("**Open Source Software**") in compliance with all license terms applicable to such Open Source Software; and (ii) the Company does not use or distribute nor has used or distributed any Open Source Software in any manner that requires or has required (A) the Company to permit reverse engineering of any software code or other technology owned by the Company or (B) any software code or other technology owned by the Company to be (1) disclosed or distributed in source code form, (2) licensed for the purpose of making derivative works or (3) redistributed at no charge.

(w) (i) The Company has complied in all material respects and is presently in compliance with all internal and external privacy policies, contractual obligations, industry standards, applicable laws, statutes, judgments, orders, rules and regulations of any court or arbitrator or other governmental or regulatory authority and any other legal obligations, in each case, relating to the collection, use, transfer, import, export, storage, protection, disposal and disclosure by the Company of personally identifiable or other regulated data ("**Data Security Obligations**", and such data, "**Data**"); (ii) the Company has not received any written notification of or complaint regarding material non-compliance with any Data Security Obligation; and (iii) there is no action, suit, investigation or proceeding by or before any court or governmental agency, authority or body pending or, to the Company's knowledge, threatened alleging non-compliance with any Data Security Obligation.

(x) The Company's information technology assets and equipment, computers, systems, networks, hardware, software, internet websites, applications and data and databases (including the data of their respective customers, employees, suppliers, vendors and any third-party data maintained by or on behalf of the Company) (collectively, "**IT Systems**") are adequate for, and operate and perform in all material respects as required in connection with, the operation of the business of the Company, free and clear of all bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company has implemented reasonable controls, policies, procedures and technical safeguards to protect the IT Systems and Data used in connection with the operation of the Company's business. Without limiting the foregoing, the Company has used reasonable efforts to implement appropriate controls, policies, procedures and technical safeguards to

establish and maintain, and have implemented, maintained and complied with, reasonable data protection controls, policies and procedures that are designed to protect against and prevent breach, destruction, loss, unauthorized distribution, use, access, disablement, misappropriation or modification, or other compromise or misuse of any IT Systems or Data used in connection with the operation of the Company's business ("**Breach**"). To the Company's knowledge, there has been no material Breach, and the Company has not been notified of and has no knowledge of any event or condition that would reasonably be expected to result in, any such material Breach.

(y) No material labor dispute with the employees of the Company exists, or, to the knowledge of the Company, is imminent; and the Company is not aware of any existing, threatened or imminent labor disturbance by the employees of any of its principal suppliers, manufacturers or contractors that would, singly or in the aggregate, have a material adverse effect on the Company.

(z) The Company is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as in the Company's reasonable judgment are prudent and customary in the businesses in which they are engaged; the Company has not been refused any insurance coverage sought or applied for; and the Company does not have any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not reasonably be expected to have a material adverse effect on the Company.

(aa) The Company possesses all certificates, authorizations and permits issued by the appropriate federal, state or foreign regulatory authorities necessary to conduct their respective businesses, and the Company has not received any written notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a material adverse effect on the Company.

(bb) Any statistical and market-related data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate in all material respects and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(cc) The Company has operated at all times and is currently in compliance in all material respects with all applicable statutes, rules and regulations of the U.S. Food and Drug Administration (the "**FDA**") and applicable foreign regulatory authorities, including the European Medicines Agency and the UK Medicines & Healthcare products Regulatory Agency (collectively, the "**Regulatory Authorities**"), including, without limitation

(i) the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder;

(ii) applicable federal, state, local and foreign health care laws, including the U.S. Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)), the Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a), the U.S. Civil False Claims Act (31 U.S.C. Section 3729 et seq.), all applicable federal, state, local and all foreign criminal laws relating to health care fraud and abuse, including but not limited to false statements relating to health care matters (42 U.S.C. Section 1320a-7b(a)), 18 U.S.C. Sections 286 and 287, and the health care fraud criminal provisions under the U.S. Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) (42 U.S.C. Section 1320d et seq.), the exclusion laws, the statutes, regulations and directives of applicable government funded or sponsored healthcare programs, and the regulations promulgated pursuant to such statutes;

(iii) the Standards for Privacy of Individually Identifiable Health Information, the Security Standards, and the Standards for Electronic Transactions and Code Sets promulgated under HIPAA, the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. Section 17921 et seq.), and the regulations promulgated thereunder and any state or non-U.S. counterpart thereof or any other law or regulation the purpose of which is to protect the privacy of individuals or prescribers;

(iv) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, the regulations promulgated thereunder;

(v) the U.S. Controlled Substances Act (21 U.S.C. Section 801 et seq.);

(vi) the Clinical Laboratories Improvement Act of 1967, as amended) (“**CLIA**”);

(vii) licensure, quality, safety and accreditation requirements under applicable federal, state, local or foreign laws or regulatory bodies; and

(viii) all other local, state, federal, national, supranational and foreign laws, relating to the regulation of the Company and the ownership, testing, development, manufacture, packaging, processing, use, distribution, marketing, labeling, promotion, sale, offer for sale, storage, import, export or disposal of any product under development, manufactured or distributed by the Company; (clauses (i) through (viii), collectively, “**Health Care Laws**”).

(dd) (i) the studies, tests and preclinical and clinical trials conducted by or, to the Company’s knowledge, on behalf of or sponsored by the Company or in which the Company has participated, were, and if still pending are being conducted in all material respects in accordance with standard medical and experimental protocols, procedures and controls pursuant to accepted professional scientific research standards and procedures, and all applicable Health Care Laws, the rules and regulations of the Regulatory Authorities and, to the extent required, current Good Clinical Practices and Good Laboratory Practices; (ii) the descriptions of the results of such studies and trials contained

in the Registration Statement, the Time of Sale Prospectus or the Prospectus are accurate and complete in all material respects and fairly present the data derived from such trials and studies; (iii) the Company has no knowledge of any other studies or trials not described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, the results of which are materially inconsistent with or call into question the results described or referred to in the Registration Statement, the Time of Sale Prospectus and the Prospectus; has provided the Underwriters with all substantive written notices, correspondence and summaries of all other communications provided to the Company from the Regulatory Authorities; and (iv) the Company has not received any written notices or correspondence from any Regulatory Authority or any other governmental entity requiring the termination, material modification or suspension of any studies or trials that are described in the Registration Statement, the Time of Sale Prospectus and the Prospectus or the results of which are referred to in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(ee) (i) The Company has filed, obtained, maintained or submitted all reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Health Care Laws, and, all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were timely, complete, accurate and not misleading on the date filed (or were corrected or supplemented by a subsequent submission); (ii) the Company has not received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action from any court or arbitrator or Regulatory Authority, other governmental entity or third party alleging that any Company or product operation or activity is in violation of any Health Care Laws, including, without limitation, any FDA Form 483, notice of adverse finding, warning letter, untitled letter or other correspondence or notice from the FDA or any other Regulatory Authority or governmental entity, nor, to the Company's knowledge, is any such claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action threatened; (iii) the Company is not party to any corporate integrity agreements, monitoring agreements, consent decrees, settlement orders, or similar agreements with or imposed by any Regulatory Authority or other governmental entity; and (iv) neither the Company nor its employees, officers or directors has been excluded, suspended or debarred from participation in any U.S. federal health care program or human clinical research or, to the knowledge of the Company, is subject to an inquiry, investigation, proceeding or other similar action by a Regulatory Authority or other governmental entity that could reasonably be expected to result in debarment, suspension, or exclusion.

(ff) The Company's clinical laboratory tests are conducted in compliance with all applicable Health Care Laws, and, to the extent applicable, the respective counterparts thereof promulgated by governmental authorities in countries outside the United States. The Company has not received notice from the FDA, HHS or other governmental authority alleging or asserting noncompliance with any applicable Health Care Law. To the Company's knowledge, neither the FDA nor any other governmental authority is considering such action.

(gg) The financial statements included or incorporated by reference in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, together with the related schedules and notes thereto, comply as to form in all material respects with the applicable accounting requirements of the Securities Act and present fairly, in all material respects, the consolidated financial position of the Company as of the dates shown and its results of operations and cash flows for the periods shown, and such financial statements have been prepared in conformity with generally accepted accounting principles in the United States (“**U.S. GAAP**”) applied on a consistent basis throughout the periods covered thereby except for any normal year-end adjustments in the Company’s quarterly financial statements. The other financial information included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus has been derived from the accounting records of the Company and presents fairly in all material respects the information shown thereby.

(hh) KPMG LLP, who have certified certain financial statements of the Company and delivered its report with respect to the audited consolidated financial statements and schedules filed with the Commission as part of the Registration Statement and included in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus, is an independent registered public accounting firm with respect to the Company within the meaning of the Securities Act and the applicable rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(ii) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management’s general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with U.S. GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences and (v) the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement is accurate. Since the end of the Company’s most recent audited fiscal year, there has been (i) no material weakness in the Company’s internal control over financial reporting (whether or not remediated) and (ii) no change in the Company’s internal control over financial reporting that has materially and adversely affected, or is reasonably likely to materially and adversely affect, the Company’s internal control over financial reporting.

(jj) The Company has filed all federal, state, local and foreign tax returns required to be filed through the date of this Agreement or have requested extensions thereof (except where the failure to file would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company) and have paid all taxes required to be paid thereon (except for cases in which the failure to file or pay would not, singly or in the aggregate, reasonably be expected to have a material adverse effect on the Company, or, except as currently being contested in good faith and for which reserves required by U.S. GAAP have been created in the financial statements of the Company), and no tax deficiency has been determined adversely to the Company which, singly or in the

aggregate, has had (nor does the Company have any notice or knowledge of any tax deficiency which could reasonably be expected to be determined adversely to the Company and which could reasonably be expected to have) a material adverse effect on the Company.

(kk) The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(ll) From the time of initial confidential submission of the Registration Statement to the Commission through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an "**Emerging Growth Company**").

(mm) The Company (i) has not alone engaged in any Testing-the-Waters Communication with any person other than Testing-the-Waters Communications with the consent of the Representative with entities that are reasonably believed to be qualified institutional buyers within the meaning of Rule 144A under the Securities Act or institutions that are reasonably believed to be accredited investors within the meaning of Rule 501 under the Securities Act and (ii) has not authorized anyone other than the Representative to engage in Testing-the-Waters Communications. The Company reconfirms that the Representative has been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act other than those listed on Schedule III hereto. "**Testing-the-Waters Communication**" means any communication with potential investors undertaken in reliance on Section 5(d) or Rule 163B of the Securities Act.

(nn) The Company does not have any securities rated by any "nationally recognized statistical rating organization," as such term is defined in Section 3(a)(62) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

(oo) As of the time of each sale of the Shares in connection with the offering when the Prospectus is not yet available to prospective purchasers, none of (A) the Time of Sale Prospectus, (B) any free writing prospectus, when considered together with the Time of Sale Prospectus, and (C) any individual Testing-the-Waters Communication, when considered together with the Time of Sale Prospectus, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

2. *Agreements to Sell and Purchase.* The Company hereby agrees to sell to the several Underwriters, and each Underwriter, upon the basis of the representations and warranties herein contained, but subject to the terms and conditions hereinafter stated, agrees, severally and not jointly, to purchase from the Company the respective numbers of Firm Shares set forth in Schedule I hereto opposite its name at **\$1.0796** a share (the "**Purchase Price**").

On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to sell to the Underwriters the Additional Shares, and the Underwriters shall have the right to purchase, severally and not jointly, up to **4,575,000** Additional Shares at the Purchase Price, provided, however, that the amount paid by the Underwriters for any Additional Shares shall be reduced by an amount per share equal to any dividends declared by the Company and payable on the Firm Shares but not payable on such Additional Shares. The Representative may exercise this right on behalf of the Underwriters in whole or from time to time in part by giving written notice not later than 30 days after the date of this Agreement. Any exercise notice shall specify the number of Additional Shares to be purchased by the Underwriters and the date on which such shares are to be purchased. Each purchase date must be at least one business day after the written notice is given and may not be earlier than the closing date for the Firm Shares nor later than ten business days after the date of such notice. Additional Shares may be purchased as provided in Section 4 hereof solely for the purpose of covering sales of shares in excess of the number of the Firm Shares. On each day, if any, that Additional Shares are to be purchased (an “**Option Closing Date**”), each Underwriter agrees, severally and not jointly, to purchase the number of Additional Shares (subject to such adjustments to eliminate fractional shares as the Representative may determine) that bears the same proportion to the total number of Additional Shares to be purchased on such Option Closing Date as the number of Firm Shares set forth in Schedule I hereto opposite the name of such Underwriter bears to the total number of Firm Shares.

3. *Terms of Public Offering.* The Company is advised by the Representative that the Underwriters propose to make a public offering of their respective portions of the Shares as soon after the Registration Statement and this Agreement have become effective as in the Representative’s judgment is advisable. The Company is further advised by the Representative that the Shares are to be offered to the public initially at **\$1.15** a share (the “**Public Offering Price**”) and to certain dealers selected by the Representative at a price that represents a concession not in excess of **\$0.0422** a share under the Public Offering Price.

4. *Payment and Delivery.* Payment for the Firm Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Firm Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on November 21, 2022, or at such other time on the same or such other date, not later than November 28, 2022, as shall be designated in writing by the Representative. The time and date of such payment are hereinafter referred to as the “**Closing Date.**”

Payment for any Additional Shares shall be made to the Company in Federal or other funds immediately available in New York City against delivery of such Additional Shares for the respective accounts of the several Underwriters at 10:00 a.m., New York City time, on the date specified in the corresponding notice described in Section 2 or at such other time on the same or on such other date, in any event not later than December 30, 2022, as shall be designated in writing by the Representative.

The Firm Shares and Additional Shares shall be registered in such names and in such denominations as the Representative shall request in writing not later than one full business day prior to the Closing Date or the applicable Option Closing Date, as the case may be. The Firm Shares and Additional Shares shall be delivered to the Representative on the Closing Date or an

Option Closing Date, as the case may be, for the respective accounts of the several Underwriters, with any transfer and similar taxes payable in connection with the transfer of the Shares to the Underwriters duly paid, against payment of the Purchase Price therefor.

5. *Conditions to the Underwriters' Obligations.* The obligations of the Company to sell the Shares to the Underwriters and the several obligations of the Underwriters to purchase and pay for the Shares on the Closing Date are subject to the condition that the Registration Statement shall have become effective not later than 4:00 p.m. (New York City time) on the date hereof.

The several obligations of the Underwriters are subject to the following further conditions:

(a) Subsequent to the execution and delivery of this Agreement and prior to the Closing Date:

(i) no order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose or pursuant to Section 8A under the Securities Act shall be pending before or, to the knowledge of the Company, threatened by the Commission; and

(ii) there shall not have occurred any change, or any development involving a prospective change, in the condition, financial or otherwise, or in the earnings, business or operations of the Company, from that set forth in the Time of Sale Prospectus that, in the Representative's judgment, is material and adverse and that makes it, in the Representative's judgment, impracticable to market the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus.

(b) The Underwriters shall have received on the Closing Date a certificate, dated the Closing Date and signed by an executive officer of the Company, to the effect set forth in Sections 5(a)(i) and 5(a)(ii) above and to the effect that the representations and warranties of the Company contained in this Agreement are true and correct as of the Closing Date and that the Company has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied hereunder on or before the Closing Date.

The officer signing and delivering such certificate may rely upon the best of his or her knowledge as to proceedings threatened.

(c) The Underwriters shall have received on the Closing Date an opinion letter (including certain negative assurance statements) of Sidley Austin LLP, dated the Closing Date, in substantially the form as set forth on Exhibit B.

(d) The Underwriters shall have received on the Closing Date opinions of (i) Foley Hoag LLP, (ii) Sheridan Ross P.C., (iii) DLA Piper LLP and (iv) Parker Highlander PLLC, each acting as outside intellectual property counsel for the Company, dated the Closing Date, in substantially the forms as set forth on Exhibits C-1, C-2, C-3 and C-4, respectively.

(e) The Underwriters shall have received on the Closing Date an opinion of Foley Hoag LLP, outside regulatory counsel for the Company, dated the Closing Date, in substantially the form as set forth on Exhibit D.

(f) The Underwriters shall have received on the Closing Date (i) an opinion and (ii) negative assurance letter of Davis Polk & Wardwell LLP, counsel for the Underwriters, dated the Closing Date, in form and substance reasonably satisfactory to the Representative.

With respect to Sections 5(c) and 5(f) above, Sidley Austin LLP and Davis Polk & Wardwell LLP may state that their opinions and beliefs are based upon their participation in the preparation of the Registration Statement, the Time of Sale Prospectus and the Prospectus and any amendments or supplements thereto and review and discussion of the contents thereof, but are without independent check or verification, except as specified.

The opinion (including certain negative assurance statements) of Sidley Austin LLP described in Section 5(c) above shall be rendered to the Underwriters at the request of the Company and shall so state therein.

(g) The Underwriters shall have received, on each of the date hereof and the Closing Date, a letter dated the date hereof or the Closing Date, as the case may be, in form and substance reasonably satisfactory to the Underwriters, from KPMG LLP, independent public accountants, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus; *provided* that the letter delivered on the Closing Date shall use a "cut-off date" not earlier than the date hereof.

(h) The "lock-up" agreements, each substantially in the form of Exhibit A hereto, between the Representative and certain shareholders, officers and directors of the Company relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to the Representative on or before the date hereof, shall be in full force and effect on the Closing Date.

(i) The several obligations of the Underwriters to purchase Additional Shares hereunder are subject to the delivery to the Underwriters on the applicable Option Closing Date of the following:

(i) a certificate, dated the Option Closing Date and signed by an executive officer of the Company, confirming that the certificate delivered on the Closing Date pursuant to Section 5(b) hereof remains true and correct as of such Option Closing Date;

(ii) an opinion (including certain negative assurance statements) of Sidley Austin LLP, outside counsel for the Company, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinion required by Section 5(c) hereof;

(iii) opinions of (i) Foley Hoag LLP, (ii) Sheridan Ross P.C., (iii) DLA Piper LLP and (iv) Parker Highlander PLLC, each outside intellectual property counsel for the Company, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinions required by Section 5(d) hereof;

(iv) an opinion of Foley Hoag LLP, outside regulatory counsel for the Company, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinion required by Section 5(e) hereof;

(v) an opinion and negative assurance letter of Davis Polk & Wardwell LLP, counsel for the Underwriters, dated the Option Closing Date, relating to the Additional Shares to be purchased on such Option Closing Date and otherwise to the same effect as the opinion required by Section 5(f) hereof;

(vi) a letter dated the Option Closing Date, in form and substance satisfactory to the Underwriters, from KPMG LLP, independent public accountants, substantially in the same form and substance as the letter furnished to the Underwriters pursuant to Section 5(h) hereof; *provided* that the letter delivered on the Option Closing Date shall use a “cut-off date” not earlier than two business days prior to such Option Closing Date; and

(vii) such other documents as the Representative may reasonably request with respect to the good standing of the Company, the due authorization and issuance of the Additional Shares to be sold on such Option Closing Date and other matters related to the issuance of such Additional Shares.

6. *Covenants of the Company.* The Company covenants with each Underwriter as follows:

(a) To furnish to the Representative, upon written request, without charge, two signed copies of the Registration Statement (including exhibits thereto and documents incorporated by reference) and for delivery to each other Underwriter a conformed copy of the Registration Statement (without exhibits thereto but including documents incorporated by reference) and to furnish to the Representative in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period mentioned in Section 6(e) or 6(f) below, as many copies of the Time of Sale Prospectus, the Prospectus, any documents incorporated by reference therein and any supplements and amendments thereto or to the Registration Statement as the Representative may reasonably request.

(b) Before amending or supplementing the Registration Statement, the Time of Sale Prospectus or the Prospectus, to furnish to the Representative a copy of each such proposed amendment or supplement and not to file any such proposed amendment or supplement to which the Representative reasonably object, in writing, and to file with the

Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) To furnish to the Representative a copy of each proposed free writing prospectus to be prepared by or on behalf of, used by, or referred to by the Company and not to use or refer to any proposed free writing prospectus to which the Representative reasonably object.

(d) Not to take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of the Underwriter that the Underwriter otherwise would not have been required to file thereunder.

(e) If the Time of Sale Prospectus is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus in order to make the statements therein, in the light of the circumstances, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement then on file, or if, in the reasonable opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not, in the light of the circumstances when the Time of Sale Prospectus is delivered to a prospective purchaser, be misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(f) If, during such period after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is required by law to be delivered in connection with sales by an Underwriter or dealer, any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, not misleading, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Prospectus to comply with applicable law, forthwith to prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to the dealers (whose names and addresses the Representative will furnish to the Company) to which Shares may have been sold by the Representative on behalf of the Underwriters and to any other dealers upon request, either amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances when the Prospectus (or in lieu thereof the notice referred to in Rule 173(a) of the Securities Act) is delivered to a purchaser, be misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law.

(g) To endeavor to qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representative shall reasonably request.

(h) To make generally available (which may be satisfied by filing with the Commission on its Electronic Data Gathering, Analysis and Retrieval System) to the Company's security holders and to the Underwriters as soon as practicable an earnings statement covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the date of this Agreement which shall satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

(i) Whether or not the transactions contemplated in this Agreement are consummated or this Agreement is terminated, to pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including: (i) the fees, disbursements and expenses of the Company's counsel and the Company's accountants in connection with the registration and delivery of the Shares under the Securities Act and all other fees or expenses in connection with the preparation and filing of the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company and amendments and supplements to any of the foregoing, including all printing costs associated therewith, and the mailing and delivering of copies thereof to the Underwriters and dealers, in the quantities hereinabove specified, (ii) all costs and expenses related to the transfer and delivery of the Shares to the Underwriters, including any transfer or other taxes payable thereon, (iii) the cost of printing or producing any Blue Sky or Legal Investment memorandum in connection with the offer and sale of the Shares under state securities laws and all expenses in connection with the qualification of the Shares for offer and sale under state securities laws as provided in Section 6(g) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky or Legal Investment memorandum (such fees and expenses of counsel in aggregate not to exceed \$10,000), (iv) all filing fees and the reasonable fees and disbursements of counsel to the Underwriters incurred in connection with the review and qualification of the offering of the Shares by the Financial Industry Regulatory Authority ("**FINRA**") (such fees and expenses of counsel in aggregate not to exceed \$40,000), (v) all fees and expenses in connection with the preparation and filing of the registration statement on Form 8-A relating to the Common Stock and all costs and expenses incident to listing the Shares on the NASDAQ Global Market, (vi) the cost of printing certificates representing the Shares, (vii) the costs and charges of any transfer agent, registrar or depository, (viii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the offering of the Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and 50% of the cost of any aircraft or other transportation chartered in connection with the road show (with the remaining 50% of such costs to be paid by the Underwriters), (ix) the document production charges and expenses associated with

printing this Agreement and (x) all other costs and expenses incident to the performance of the obligations of the Company hereunder for which provision is not otherwise made in this Section. It is understood, however, that except as provided in this Section, Section 8 entitled “Indemnity and Contribution” and the last paragraph of Section 10 below, the Underwriters will pay all of their costs and expenses, including fees and disbursements of their counsel, stock transfer taxes payable on resale of any of the Shares by them and any advertising expenses connected with any offers they may make.

(j) The Company will promptly notify the Representative if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Shares within the meaning of the Securities Act and (ii) completion of the Restricted Period (as defined in this Section 6).

(k) If at any time following the distribution of any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act there occurred or occurs an event or development as a result of which such Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representative and will promptly amend or supplement, at its own expense, such Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

(l) The Company will deliver to each Underwriter (or its agent), on the date of execution of this Agreement, a properly completed and executed Certification Regarding Beneficial Owners of Legal Entity Customers, together with copies of identifying documentation, and the Company undertakes to provide such additional supporting documentation as each Underwriter may reasonably request in connection with the verification of the foregoing Certification.

The Company also covenants with each Underwriter that, without the prior written consent of the Representative on behalf of the Underwriters, it will not, and will not publicly disclose an intention to, during the period ending 90 days after the date of the Prospectus (the “**Restricted Period**”), (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise or (3) file any registration statement with the Commission relating to the offering of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock.

The restrictions contained in the preceding paragraph shall not apply to (A) the Shares to be sold hereunder, (B) the issuance by the Company of shares of Common Stock upon the exercise of an option or warrant or the conversion of a security outstanding on the date hereof as described

in each of the Time of Sale Prospectus and Prospectus, (C) the sale of any shares of Common Stock under the Company's existing "at-the-market" common equity offering program or existing equity facility after 30 calendar days after the date hereof, (D) the issuance by the Company of shares of Common Stock or options to purchase shares of, Common Stock to employees, officers, directors, advisors or consultants of the Company pursuant to employee benefit plans as described in each of the Time of Sale Prospectus and Prospectus, provided that, prior to the issuance of any such shares or the grant of any such options, the Company shall cause each recipient of such grant or issuance to execute and deliver a "lock-up" agreement, substantially in the form of Exhibit A hereto, (E) the filing by the Company of registration statements on Form S-8 with respect to the employee benefit plans described in the Time of Sale Prospectus and Prospectus, (F) the sale or issuance of or entry into an agreement to sell or issue shares of Common Stock in connection with the Company's acquisition of one or more businesses, products, assets or technologies (whether by means of merger, stock purchase, asset purchase or otherwise) or in connection with joint ventures, collaboration or licensing agreements, marketing or distribution arrangements, commercial relationships or other strategic transactions; provided, that, the aggregate number of shares of Common Stock that the Company may sell or issue or agree to sell or issue pursuant to this clause (G) shall not exceed 5% of the total number of shares of Common Stock issued and outstanding immediately following the completion of the transactions contemplated by this Agreement and provided further that the Company shall cause each recipient of such shares to execute and deliver to you, on or prior to such issuance, a "lock up" agreement, substantially in the form of Exhibit A hereto, or (H) facilitating the establishment of a trading plan on behalf of a shareholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, *provided* that (i) such plan does not provide for the transfer of Common Stock during the Restricted Period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of Common Stock may be made under such plan during the Restricted Period.

7. *Covenants of the Underwriters.* Each Underwriter, severally and not jointly, covenants with the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not be required to be filed by the Company thereunder, but for the action of the Underwriter.

8. *Indemnity and Contribution.* (a) The Company agrees to indemnify and hold harmless each Underwriter, each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and each director, officer and affiliate of any Underwriter within the meaning of Rule 405 under the Securities Act from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal or other expenses reasonably incurred in connection with defending or investigating any such action or claim) that arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or any amendment thereof, any preliminary prospectus, the Time of Sale Prospectus or any amendment or supplement thereto, any issuer free writing prospectus as defined in Rule 433(h) under the Securities Act, any Company information that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act, any road show as defined in Rule 433(h) under the Securities Act (a "road show"),

the Prospectus or any amendment or supplement thereto, or any Testing-the-Waters Communication, or arise out of, or are based upon, any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any such untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use therein, it being understood and agreed that the only such information furnished by the Underwriters through the Representative consists of the information described as such in paragraph (b) below.

(b) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the foregoing indemnity from the Company to such Underwriter, but only with reference to information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representative expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any issuer free writing prospectus, road show or the Prospectus or any amendment or supplement thereto, it being understood and agreed that the only such information furnished by any Underwriter consists of the following: the concession figures appearing in the third paragraph under the caption "Underwriters," the information relating to stabilizing transactions contained in the twelfth paragraph under the caption "Underwriters" and the information regarding internet distribution appearing in the fourteenth paragraph under the caption "Underwriters."

(c) In case any proceeding (including any governmental investigation) shall be instituted involving any person in respect of which indemnity may be sought pursuant to Section 8(a) or 8(b), such person (the "**indemnified party**") shall promptly notify the person against whom such indemnity may be sought (the "**indemnifying party**") in writing and the indemnifying party, upon request of the indemnified party, shall retain counsel reasonably satisfactory to the indemnified party to represent the indemnified party and any others the indemnifying party may designate in such proceeding and shall pay the reasonably incurred and documented fees and disbursements of such counsel related to such proceeding. In any such proceeding, any indemnified party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such indemnified party unless (i) the indemnifying party and the indemnified party shall have mutually agreed to the retention of such counsel, (ii) the named parties to any such proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them or (iii) the indemnifying person has failed within a reasonable time to retain counsel satisfactory to the indemnified party. It is understood that the indemnifying party shall not, in respect of the legal expenses of any indemnified party in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all such indemnified parties and that all such fees and expenses shall be reimbursed as they are incurred. Such firm shall be designated in writing by the Representative, in the case of parties indemnified pursuant to

Section 8(a), and by the Company, in the case of parties indemnified pursuant to Section 8(b). The indemnifying party shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the indemnifying party agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding and does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) To the extent the indemnification provided for in Section 8(a) or 8(b) is unavailable to an indemnified party or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each indemnifying party under such paragraph, in lieu of indemnifying such indemnified party thereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other hand from the offering of the Shares or (ii) if the allocation provided by clause 8(d)(i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 8(d)(i) above but also the relative fault of the Company on the one hand and of the Underwriters on the other hand in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other hand in connection with the offering of the Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Shares (before deducting expenses) received by the Company and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate Public Offering Price of the Shares. The relative fault of the Company on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Underwriters' respective obligations to contribute pursuant to this Section 8 are several in proportion to the respective number of Shares they have purchased hereunder, and not joint.

(e) The Company and the Underwriters agree that it would not be just or equitable if contribution pursuant to this Section 8 were determined by *pro rata* allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in Section 8(d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages and liabilities referred to in Section 8(d) shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 8, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in this Section 8 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(f) The indemnity and contribution provisions contained in this Section 8 and the representations, warranties and other statements of the Company contained in this Agreement shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Underwriter, any person controlling any Underwriter or any affiliate of any Underwriter or by or on behalf of the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Shares.

9. *Termination.* The Underwriters may terminate this Agreement by notice given by the Representative to the Company, if after the execution and delivery of this Agreement and prior to or on the Closing Date or any Option Closing Date, as the case may be, (i) trading generally shall have been suspended or materially limited on, or by, as the case may be, any of the New York Stock Exchange, the NYSE American, the NASDAQ Global Market or other relevant exchanges, (ii) trading of any securities of the Company shall have been suspended on any exchange or in any over-the-counter market, (iii) a material disruption in securities settlement, payment or clearance services in the United States shall have occurred, (iv) any moratorium on commercial banking activities shall have been declared by Federal or New York State authorities or (v) there shall have occurred any outbreak or escalation of hostilities, or any change in financial markets or any calamity or crisis that, in the Representative's judgment, is material and adverse and which, singly or together with any other event specified in this clause (v), makes it, in the Representative's judgment, impracticable or inadvisable to proceed with the offer, sale or delivery of the Shares on the terms and in the manner contemplated in the Time of Sale Prospectus or the Prospectus.

10. *Effectiveness; Defaulting Underwriters.* This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

If, on the Closing Date or an Option Closing Date, as the case may be, any one or more of the Underwriters shall fail or refuse to purchase Shares that it has or they have agreed to purchase

hereunder on such date, and the aggregate number of Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the aggregate number of the Shares to be purchased on such date, the other Underwriters shall be obligated severally in the proportions that the number of Firm Shares set forth opposite their respective names in Schedule I bears to the aggregate number of Firm Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as the Representative may specify, to purchase the Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; *provided* that in no event shall the number of Shares that any Underwriter has agreed to purchase pursuant to this Agreement be increased pursuant to this Section 10 by an amount in excess of one-ninth of such number of Shares without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Firm Shares and the aggregate number of Firm Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Firm Shares to be purchased on such date, and arrangements satisfactory to the Representative and the Company for the purchase of such Firm Shares are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter or the Company. In any such case either the Representative or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement, in the Time of Sale Prospectus, in the Prospectus or in any other documents or arrangements may be effected. If, on an Option Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Additional Shares and the aggregate number of Additional Shares with respect to which such default occurs is more than one-tenth of the aggregate number of Additional Shares to be purchased on such Option Closing Date, the non-defaulting Underwriters shall have the option to (i) terminate their obligation hereunder to purchase the Additional Shares to be sold on such Option Closing Date or (ii) purchase not less than the number of Additional Shares that such non-defaulting Underwriters would have been obligated to purchase in the absence of such default. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company shall be unable to perform its obligations under this Agreement, the Company will reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the reasonably incurred and documented fees and disbursements of their counsel) reasonably incurred by such Underwriters in connection with this Agreement or the offering contemplated hereunder; *provided* that the foregoing obligation to reimburse the Underwriters shall not apply to any defaulting Underwriter that shall have failed or refused to purchase Shares for reasons other than as permitted under this Agreement.

11. *Entire Agreement.* (a) This Agreement, together with any contemporaneous written agreements and any prior written agreements (to the extent not superseded by this Agreement) that relate to the offering of the Shares, represents the entire agreement between the Company and the Underwriters with respect to the preparation of any preliminary prospectus, the Time of Sale Prospectus, the Prospectus, the conduct of the offering, and the purchase and sale of the Shares.

(b) The Company acknowledges that in connection with the offering of the Shares: (i) the Underwriters have acted at arm's length, are not agents of, and owe no fiduciary duties to, the Company or any other person, (ii) the Underwriters owe the Company only those duties and obligations set forth in this Agreement, any contemporaneous written agreements and prior written agreements (to the extent not superseded by this Agreement), if any, (iii) the Underwriters may have interests that differ from those of the Company, and (iv) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice, or solicitation of any action by the Underwriters with respect to any entity or natural person. The Company waives to the full extent permitted by applicable law any claims it may have against the Underwriters arising from an alleged breach of fiduciary duty in connection with the offering of the Shares.

12. *Recognition of the U.S. Special Resolution Regimes.* (a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United State.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section a “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). “**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

13. *Counterparts.* This Agreement may be signed in two or more counterparts, which may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal E-SIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com), each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

14. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

15. *Headings.* The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Agreement.

16. *Notices.* All communications hereunder shall be in writing and effective only upon receipt and if to the Underwriters shall be delivered, mailed or sent to William Blair & Company, L.L.C., 150 N. Riverside Plaza, Chicago, Illinois 60606, Attention: Equity Capital Markets, Facsimile: (312) 551-4646; and if to the Company shall be delivered, mailed or sent to 2970 Wilderness Place, Boulder, Colorado 80301.

[Signature Page Follows]

SCHEDULE I

| Underwriter | Number of Firm Shares To Be Purchased |
|---------------------------------|--|
| William Blair & Company, L.L.C. | 30,500,000 |
| <hr/> | |
| Total: | <u><u>30,500,000</u></u> |

SCHEDULE II

Time of Sale Prospectus

1. Preliminary Prospectus issued November 16, 2022

2. Pricing Information:

| | |
|--------------|-------------------|
| Firm Shares: | 30,500,000 |
|--------------|-------------------|

| | |
|--------------------|------------------|
| Additional Shares: | 4,575,000 |
|--------------------|------------------|

| | |
|------------------------|---------------|
| Public Offering Price: | \$1.15 |
|------------------------|---------------|

SCHEDULE III

Written Testing-the-Waters Communication

None

FORM OF LOCK-UP LETTER

LOCK-UP AGREEMENT

_____, 2022

William Blair & Company, L.L.C.

c/o William Blair & Company, L.L.C.
150 N. Riverside Plaza
Chicago, Illinois 60606

Ladies and Gentlemen:

The undersigned understands that William Blair & Company, L.L.C. (the “**Representative**”) propose to enter into an Underwriting Agreement (the “**Underwriting Agreement**”) with Biodesix, Inc., a Delaware corporation (the “**Company**”), providing for the public offering (the “**Public Offering**”) by the several Underwriters listed on Schedule I to the Underwriting Agreement, including the Representative (the “**Underwriters**”), of shares of the common stock, par value \$0.001 per share, of the Company (the “**Common Stock**”).

To induce the Underwriters that may participate in the Public Offering to continue their efforts in connection with the Public Offering, the undersigned hereby agrees that, without the prior written consent of the Representative on behalf of the Underwriters, it will not, and will not publicly disclose an intention to, during the period commencing on the date hereof and ending 90 days after the date of the final prospectus (the “**Restricted Period**”) relating to the Public Offering (the “**Prospectus**”), (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock beneficially owned (as such term is used in Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), by the undersigned or any other securities so owned convertible into or exercisable or exchangeable for Common Stock, or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise.

The foregoing sentence shall not apply to:

(a) transactions relating to shares of Common Stock or other securities acquired in (x) open market transactions after the completion of the Public Offering or (y) as part of the Public Offering (other than issuer-directed shares purchased in the Public Offering, which shall be subject to the foregoing sentence) of Common Stock, *provided* that no filing under Section 16(a) of the Exchange Act reporting a reduction in beneficial ownership of the Common Stock shall be required or shall be voluntarily made in connection with subsequent sales of Common Stock or other securities acquired in such open market transactions, and *provided, further*, that all filings

on Form 13F and all initial filings under Schedule 13G or 13D regarding beneficial ownership shall be permitted;

(b) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock as a bona fide gift;

(c) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to any trust or similar entity for the direct or indirect benefit of the undersigned or the immediate family of the undersigned (for purposes of this lock-up agreement, "immediate family" shall mean any relationship by blood, marriage or adoption, not more remote than first cousin) or if the undersigned is a trust, to any beneficiary of the undersigned (including such beneficiary's estate);

(d) distributions of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to limited partners, general partners, members, stockholders or other equityholders of the undersigned;

(e) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to the undersigned's affiliates or to any investment fund or other entity that, directly or indirectly, controls or manages, is controlled or managed by, or is under common control or management with the undersigned;

(f) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to any nominee or custodian of a person or entity to whom a transfer or disposition would be permissible under clauses (b) through (e) above;

(g) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock by will or intestate succession (including to the transferee's nominee or custodian);

(h) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to the Company in connection with the exercise of options, warrants or other rights to acquire shares of Common Stock or any security convertible into or exercisable for shares of Common Stock of the Company by way of net exercise and/or to cover withholding tax obligations in connection with such exercise pursuant to an employee benefit plan, option, warrant or other right disclosed in the Prospectus for the Public Offering, *provided* that any such shares of the Common Stock issued upon exercise of such option, warrant or other right shall be subject to the restrictions set forth herein;

(i) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock pursuant to the automatic conversion of outstanding preferred stock or convertible notes of the Company into shares of Common Stock as described in the Prospectus;

(j) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock by operation of law, including pursuant to a court or regulatory agency order, a settlement agreement, a qualified domestic order or in

connection with a divorce settlement (including to any nominee or custodian of a person or entity to whom a transfer or disposition would be permissible);

(k) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to the Company pursuant to agreements described in the Prospectus under which the Company has the option to repurchase such shares or a right of first refusal with respect to transfers of such shares upon termination of service of the undersigned;

(l) transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to a third party pursuant to a merger, consolidation, *bona fide* tender offer or other similar transaction made to all holders of shares of the Common Stock involving a change of control and approved by the Company's board of directors, *provided* that if such merger, consolidation, tender offer or other transaction is not completed, such shares of Common Stock owned by the undersigned shall remain subject to the provisions of this lock-up agreement; or

(m) facilitating the establishment of a trading plan on behalf of a shareholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock, *provided* that (i) such plan does not provide for the transfer of Common Stock during the Restricted Period and (ii) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the undersigned or the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of Common Stock may be made under such plan during the Restricted Period;

provided that, with respect to each donee, trustee, distributee, or transferee, as applicable, (x) in the case of any transfer, disposition or distribution pursuant to clauses (b) to (g) above, such donee, trustee, distributee, or transferee, as applicable, shall sign and deliver a lock-up agreement substantially in the form of this agreement, (y) (A) in the case of clauses (b) to (f) above, such transfer shall not involve a disposition for value and no filing under Section 16(a) of the Exchange Act reporting a reduction in beneficial ownership of the Common Stock shall be required or shall be voluntarily made and (B) in the case of clauses (g) to (l) above, any required filing under Section 16(a) of the Exchange Act shall state the reason for such transfer in the footnotes thereto and (z) the undersigned shall not otherwise voluntarily effect any public filing or report regarding such transfers during the Restricted Period. As used in this lock-up agreement, "change of control" shall mean the consummation of any *bona fide* third-party tender offer, merger, consolidation or other similar transaction the result of which is that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than the Company, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of more than 50% of total voting power of the voting stock of the Company.

In addition, the undersigned agrees that, without the prior written consent of the Representative on behalf of the Underwriters, it will not, during the Restricted Period, make any demand for or exercise any right with respect to, the registration of any shares of Common Stock or any security convertible into or exercisable or exchangeable for Common Stock.

The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the undersigned's shares of Common Stock except in compliance with the foregoing restrictions.

The undersigned further agrees that the foregoing restrictions shall be equally applicable to any issuer-directed Shares the undersigned may purchase in the Public Offering.

The undersigned understands that the Company and the Underwriters are relying upon this agreement in proceeding toward consummation of the Public Offering. The undersigned further understands that this agreement is irrevocable and shall be binding upon the undersigned's heirs, legal representatives, successors and assigns.

The undersigned acknowledges and agrees that the Underwriters have not provided any recommendation or investment advice, nor have the Underwriters solicited any action from the undersigned with respect to the Public Offering of the shares of Common Stock, and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate. The undersigned further acknowledges and agrees that, although the Underwriters may provide certain Regulation Best Interest and Form CRS disclosures or other related documentation to you in connection with the Public Offering, the Underwriters are not making a recommendation to you to participate in the Public Offering or sell any Shares at the price determined in the Public Offering, and nothing set forth in such disclosures or documentation is intended to suggest that any Underwriter is making such a recommendation.

Whether or not the Public Offering actually occurs depends on a number of factors, including market conditions. Any Public Offering will only be made pursuant to an Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters.

The undersigned understands that, if (i) either the Representative, on the one hand, or the Company, on the other hand, informs the other, prior to the execution of the Underwriting Agreement, that they have determined not to proceed with the Public Offering, (ii) the registration statement furnished to or filed with the Commission with respect to the Public Offering is withdrawn prior to the execution of the Underwriting Agreement, (iii) the Underwriting Agreement is not duly executed by January 31, 2023 (provided that the Company may, by written notice to the undersigned prior to such date, extend such date for a period of an additional six months), or (iv) the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Common Stock to be sold thereunder, the undersigned shall be released from all obligations under this lock-up agreement.

This agreement and any claim, controversy or dispute arising under or related to this agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

IF AN INDIVIDUAL:

(duly authorized signature)

Name: _____
(please print full name)

Address:

-

E-mail:

IF AN ENTITY:

(please print complete name of entity)

By: _____
(duly authorized signature)

Name: _____
(please print full name)

Title:
(please print full title)

Address:

-

E-mail:

EXHIBIT B

FORM OF COMPANY COUNSEL OPINION

EXHIBIT C-1

FORM OF COMPANY INTELLECTUAL PROPERTY

COUNSEL OPINION

EXHIBIT C-2

FORM OF COMPANY INTELLECTUAL PROPERTY

COUNSEL OPINION

EXHIBIT C-3
FORM OF COMPANY INTELLECTUAL PROPERTY
COUNSEL OPINION

EXHIBIT C-4
FORM OF COMPANY INTELLECTUAL PROPERTY
COUNSEL OPINION

EXHIBIT D

FORM OF COMPANY REGULATORY COUNSEL OPINION

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 SHARES 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 Shares Issuable: Up to 5,000,000 Shares of Common Stock

Warrant Certificate No.: HW-01

Issue Date: November 21, 2022 (the “**Issue Date**”)

FOR VALUE RECEIVED, Biodesix, Inc. a Delaware corporation (the “**Company**”), hereby certifies that Perceptive Credit Holdings IV, LP or any of its registered assigns (collectively, the “**Holder**”) is entitled to purchase from the Company up to 5,000,000 duly authorized, validly issued, fully paid and nonassessable shares of the Company’s Common Stock at the applicable per share Exercise Price (defined below), all 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 and Guaranty Agreement, dated as of November 16, 2022 (as amended or otherwise modified from time to time, the “**Credit Agreement**”), among the Company, as the borrower, the guarantors party thereto and Perceptive Credit Opportunities Fund IV, LP, as the lender.

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

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

“**Aggregate Exercise Price**” means, with respect to any exercise of this Warrant Certificate for Warrant Shares, an amount equal to the product of (i) the number of Warrant Shares in respect of which this Warrant Certificate is then being exercised pursuant to **Sections 3** multiplied by (ii) the applicable Exercise Price.

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

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

“**Board**” means the board of directors of the Company.

“**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.

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

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

“**Charter**” means the Company’s Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on October 30, 2020 (as the same may be amended).

“**Common Stock**” means the common stock, par value \$0.001 per share, of the Company, and any capital stock into which such Common Stock shall have been converted, exchanged or reclassified following the date hereof.

“**Company**” has the meaning set forth in the preamble.

“**Credit Agreement**” has the meaning set forth in the preamble.

“**Delivery Deadline**” means two (2) Business Days after delivery of an Exercise Certificate in respect of such exercise.

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

“**Demand Registration**” has the meaning set forth in **Section 6(b)**.

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

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

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

“**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 Business Day, including, without limitation, the receipt by the Company of the Exercise Certificate and the applicable Aggregate Exercise Price.

“**Exercise Period**” has the meaning set forth in **Section 2**.

“**Exercise Price**” means, as applicable, the Initial Warrant Exercise Price, the Second Tranche Exercise Price or the Third Tranche Exercise Price.

“**Fair Market Value**” means, if the Company’s equity securities are listed on a Trading Market, as of any particular Trading Day, (i) the VWAP of such equity securities for such day or

(ii) if there have been no sales on any Trading Market on any such day, the average of the highest bid and lowest asked prices for the Company's equity securities on all applicable Trading Markets at the end of such day. If the Company'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 Board and the Holder.

"**FAST**" has the meaning set forth in **Section 3(i)**.

"**Fundamental Change**" means any event or circumstance that constitutes or results in (i) a Change in Control, as defined in the Credit Agreement (as in effect as of the date hereof) or (ii) the liquidation, bankruptcy, dissolution or winding-up (or the occurrence of any analogous proceeding) of the Company.

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

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

"**Liquidity Event**" means: (a) a merger or consolidation in which the Company is a constituent party or a subsidiary of the Company is a constituent party and the Company issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Company or a subsidiary in which the shares of capital stock of the Company outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for shares of capital stock that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the capital stock of (1) the surviving or resulting corporation; or (2) if the surviving or resulting corporation is a wholly owned subsidiary of another corporation immediately following such merger or consolidation, the parent corporation of such surviving or resulting corporation; (b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Company or any subsidiary of the Company of all or substantially all the assets of the Company and its subsidiaries taken as a whole or the sale or disposition (whether by merger, consolidation or otherwise) of one or more subsidiaries of the Company if substantially all of the assets of the Company and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, except where such sale, lease, transfer, exclusive license or other disposition is to a wholly owned subsidiary of the Company; or (c) the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary.

"**Nasdaq**" means The Nasdaq Stock Market, Inc.

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

"**Person**" means any individual, sole proprietorship, partnership, limited liability company, corporation, 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**” shall mean the Warrant Shares issuable upon the exercise of this Warrant Certificate. The parties hereto agree that, as such term is used in this Warrant Certificate, the Warrant Shares shall be deemed to be Registrable Securities for the purposes of the registration rights set forth herein at all times that the Holder has the right to acquire or obtain from the Company the Warrant Shares, whether or not such acquisition has actually been effected.

“**Registration Statement**” means any registration statement of the Company which covers any of the Registrable Securities, including the Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all materials incorporated by reference in such Registration Statement.

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

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

“**Trading Day**” means a day on which the principal Trading Market is open for trading.

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

“**Transfer Agent**” has the meaning set forth in **Section 3(c)(ii)**.

“**Unlegended Shares**” 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 Nasdaq 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 Company (collectively, “**Bloomberg**”) or, if Nasdaq is not the principal trading market for such security, the volume weighted average sale price of such security on the principal securities exchange or trading market where such security is listed or traded as reported by 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.; provided that if VWAP cannot

be calculated for such security on such date in the manner provided above, the VWAP shall be the fair market value as mutually determined by the Company and the Holder.

“**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 Shares**” means the shares of Common Stock or other capital stock of the Company then purchasable upon exercise of this Warrant Certificate in accordance with the terms of this Warrant Certificate, comprising the Initial Warrant Shares, the Second Tranche Warrant Shares and the Third Tranche Warrant Shares.

Section 2. Vesting; Term of Warrant Certificate.

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

(i) On the date hereof (the “**Initial Vesting Date**”), 3,000,000 Warrant Shares shall become vested and exercisable (such Warrant Shares, the “**Initial Warrant Shares**”) and shall be exercisable at an Exercise Price equal to \$1.0648 (the “**Initial Warrant Exercise Price**”).

(ii) On the Tranche B Loan Borrowing Date (as defined in the Credit Agreement) (the “**Second Tranche Vesting Date**”), an additional 1,000,000 Warrant Shares shall become vested and exercisable (such Warrant Shares, the “**Second Tranche Warrant Shares**”) and shall be exercisable at an Exercise Price equal the lower of (i) the Initial Warrant Exercise Price or (ii) the 10-day VWAP ending on the Business Day immediately preceding the Tranche B Loan Borrowing Date (the “**Second Tranche Exercise Price**”).

(iii) On the Tranche C Loan Borrowing Date (the “**Third Tranche Vesting Date**”), an additional 1,000,000 Warrant Shares shall become vested and exercisable (such Warrant Shares, the “**Third Tranche Warrant Shares**”) and shall be exercisable at an Exercise Price equal the lower of (i) the Initial Warrant Exercise Price or (ii) the 10-day VWAP ending on the Business Day immediately preceding the Tranche C Loan Borrowing Date (the “**Third Tranche Exercise Price**”).

The Initial Vesting Date, Second Tranche Vesting Date and Third Tranche Vesting Date are referred to collectively herein as the “**applicable Vesting Date**” and the Initial Warrant Exercise Price, Second Tranche Exercise Price and Third Tranche Exercise Price are referred to collectively herein as the “**applicable Exercise Price**”.

The Holder shall be entitled to exercise this Warrant Certificate to purchase all or any portion of the Warrant Shares that have vested as of the applicable Exercise Date pursuant to the vesting schedule set forth above, and all references herein to the Warrant Shares shall refer to those vested Warrant Shares as of the relevant date of determination.

For the avoidance of doubt, if the Tranche B Loan is not funded under the Credit Agreement, the Second Tranche Warrant Shares shall not vest, and if the Tranche C Loan is not funded under the Credit Agreement, the Third Tranche Warrant Shares shall not vest.

(b) **Exercise Period.** Subject to the terms and conditions hereof, and subject to any automatic exercise pursuant to **Section 3(m)**, at any time or from time to time on or after the applicable Vesting Date and prior to 5:00 p.m., Eastern time, on the tenth anniversary of such date or, if such day is not a Business Day, on the next preceding Business Day (the “**Exercise Period**”), the Holder of this Warrant Certificate may exercise this Warrant Certificate for all or any part of the vested Warrant Shares purchasable hereunder (subject to adjustment as provided herein).

Section 3. Exercise of Warrant Certificate.

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

(i) delivery to the Company at its then principal executive 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 Shares to be purchased) and executed; and

(ii) payment to the Company of the Aggregate Exercise Price in accordance with **Section 3(b)**.

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

(ii) by instructing the Company to withhold a number of Warrant Shares then issuable upon exercise of this Warrant Certificate with an aggregate Fair Market Value as of the Exercise Date equal to such Aggregate Exercise Price;

(iii) by surrendering to the Company (x) Warrant Shares previously acquired by the Holder with an aggregate Fair Market Value as of the Exercise Date equal to such Aggregate Exercise Price or (y) any other securities or any debt of the Company (including shares of Common Stock) having a value as of the Exercise Date equal to the Aggregate Exercise Price (which value (A) in the case of debt, shall be the principal amount thereof plus accrued and unpaid interest, and (B) in the case of shares of Common Stock, shall be the Fair Market Value thereof); or

(iv) any combination of the foregoing.

In the event of any withholding of Warrant Shares or surrender of other equity securities pursuant to **Section 3(b)(ii)**, **(iii)** or **(iv)** (solely to the extent of such withholding or surrender, a “**Cashless Exercise**”) where the number of shares whose value is equal to the Aggregate Exercise

Price is not a whole number, the number of shares withheld by or surrendered to the Company shall be rounded up to the nearest whole share and the Company shall make a cash payment to the Holder (by delivery of a certified or official bank check or by wire transfer of immediately available funds) based on the incremental fraction of a share being so withheld by or surrendered to the Company in an amount equal to the product of (x) such incremental fraction of a share being so withheld or surrendered multiplied by (y) the value thereof as of the Exercise Date determined in accordance with **Section 3(b)(iii)**.

For purposes of Rule 144, it is acknowledged and agreed that (i) the Warrant Shares issuable upon any exercise of this Warrant Certificate in any Cashless Exercise transaction shall be deemed to have been acquired on the applicable Vesting Date, and (ii) the holding period for any Warrant Shares issuable upon the exercise of this Warrant Certificate in any Cashless Exercise transaction shall be deemed to have commenced on the applicable Vesting Date.

(c) **Delivery of Stock Certificates.**

(i) With respect to any exercise of this Warrant Certificate by the Holder, upon receipt by the Company of an Exercise Certificate and delivery of the Aggregate Exercise Price (in accordance with **Section 3(b)**), the Company 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 Warrant Shares for the portion of this Warrant Certificate so exercised on such date, together with cash in lieu of any fraction of a share, as provided in **Section 3(d)**. The stock certificate or certificates so delivered shall be, to the extent possible, in such denomination or denominations as the exercising Holder shall reasonably request in the Exercise Certificate and shall be registered in the name of the Holder or, subject to compliance with **Section 8**, such other Person's name as shall be designated in the Exercise Certificate. This Warrant Certificate shall be deemed to have been exercised and such certificate or certificates of Warrant Shares 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 Shares for all purposes, as of the applicable Exercise Date.

(ii) If, at the time of exercise, the Company has a Transfer Agent, then upon the exercise this Warrant Certificate in whole or in part, the Company shall, at its own cost and expense, take all necessary action, including obtaining and delivering an opinion of counsel, to assure that the Company's transfer agent (the "**Transfer Agent**") shall issue Warrant Shares 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 Company represents and warrants that no instructions other than the foregoing instructions will be given to the Transfer Agent and that, unless waived by the Holder, this Warrant Certificate and the Warrant Shares will be free-trading, and freely transferable, and will not contain a legend restricting the resale or transferability of the Warrant Shares if the Unrestricted Conditions are met.

(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 Shares 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 Company whereupon the Company and the Holder shall

each be restored to their respective positions immediately prior to the delivery of such Exercise Certificate.

(d) **Fractional Shares.** The Company shall not be required to issue a fractional Warrant Share upon exercise of any Warrant Certificate. As to any fraction of a Warrant Share that the Holder would otherwise be entitled to purchase upon such exercise, the Company shall (unless waived by the Holder) pay to such Holder an amount in cash (by delivery of a certified or official bank check or by wire transfer of immediately available funds) equal to the product of (i) such fraction multiplied by (ii) the Fair Market Value of one Warrant Share on the Exercise Date.

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

(i) The Holder shall not be required to physically surrender this Warrant Certificate to the Company until the Holder has purchased all of the Warrant Shares available hereunder and this Warrant Certificate has been exercised in full, in which case, the Holder shall, at the written request of the Company, surrender this Warrant Certificate to the Company for cancellation within three (3) Business Days after the date the final Exercise Certificate is delivered to the Company. Partial exercises of this Warrant Certificate resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. 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 of a portion of the Warrant Shares hereunder, the number of Warrant Shares 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 Company (and the Company shall), at the time of delivery of the certificate or certificates representing the Warrant Shares being issued in accordance with **Section 3(c)**, deliver to the Holder a new Warrant Certificate evidencing the rights of the Holder to purchase the unexpired and unexercised Warrant Shares 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 Shares; Payment of Taxes.** The Company hereby represents, covenants and agrees:

(i) This Warrant Certificate is, and any Warrant Certificate issued in substitution for or replacement of this Warrant Certificate shall be, upon issuance, duly authorized and validly issued.

(ii) All Warrant Shares issuable upon the exercise of this Warrant Certificate (or any substitute or replacement Warrant Certificate) pursuant to the terms hereof shall be, upon issuance, and the Company shall take all such actions as may be necessary or appropriate in order that such Warrant Shares are, validly issued, fully paid and non-assessable, issued without violation of any

preemptive or similar rights of any stockholder of the Company and free and clear of all taxes, liens and charges.

(iii) The Company shall take all such actions as may be necessary to ensure that all such Warrant Shares are issued without violation by the Company of any applicable law or governmental regulation or any requirements of any Trading Market upon which shares of Common Stock or other securities constituting Warrant Shares may be listed at the time of such exercise (except for official notice of issuance which shall be immediately delivered by the Company upon each such issuance).

(iv) The Company shall pay all expenses in connection with, and all taxes and other governmental charges that may be imposed with respect to, the issuance or delivery of Warrant Shares 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 public offering, a Fundamental Change or any sale of the Company (pursuant to a merger, sale of stock, or otherwise), 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 Shares.**

(i) During the Exercise Period, the Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock or other securities constituting Warrant Shares, solely for the purpose of issuance upon the exercise of this Warrant Certificate, the maximum number of Warrant Shares issuable upon the exercise of this Warrant Certificate, and the par value per Warrant Share shall at all times be less than or equal to the lowest applicable Exercise Price. The Company shall not increase the par value of any Warrant Shares receivable upon the exercise of this Warrant Certificate above the lowest applicable Exercise Price, and shall take all such actions as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable shares of Common Stock upon the exercise of this Warrant Certificate.

(i) **Delivery of Electronic Shares.** If the Company has a Transfer Agent and the Transfer Agent is participating in the DTC Fast Automated Securities Transfer (“*FAST*”) program, upon written request of the Holder and in lieu of delivering physical certificates representing any shares of Common Stock (including any Warrant Shares) to be delivered under or in connection with this Warrant Certificate, the Company shall use its commercially reasonable best efforts to cause the Transfer Agent to electronically transmit the such Common Stock 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. Any delivery not effected by electronic transmission shall be effected by delivery of physical certificates.

(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 Shares the Holder is required by its broker to purchase (in

an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases shares of Common Stock to deliver in satisfaction of a sale anticipated to be made by the Holder of all or portion of such Warrant Shares which are the subject of such Delivery Failure (an "**Anticipated Sale**"), then the Company shall (i) pay in cash to the Holder the amount by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) an amount equal to the product of (A) the number of Warrant Shares that the Holder anticipated to sell in such Anticipated Sale, multiplied by (B) the Exercise Price that would have been payable for such Warrant Shares, and (ii) at the option of the Holder, either reinstate the portion of this Warrant Certificate and equivalent number of Warrant Shares in respect of which such Delivery Failure occurred or deliver to the Holder the number of Warrant Shares that would have been issued had the Company timely complied with its obligations hereunder to issue such Warrant Shares upon such exercise. The Holder shall provide the Company written notice indicating the amounts payable to the Holder, together with applicable confirmations and other evidence reasonably requested by the Company. 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, any closing sales price or VWAP of the Common Stock, the arithmetic calculation of the Exercise Price or any other computation required to be made hereunder, in the event the Holder and the Company are unable to settle such dispute within five (5) Business Days, then either party may elect to submit the disputed matter(s) for resolution. Such investment bank's determination of such disputed matter(s) shall be binding upon all parties absent demonstrable error, and the Company and the Holder shall each pay one half of the fees and costs of such investment banker or accountant.

(l) **Automatic Exercise.** If a Liquidity Event occurs with respect to the Company at any time prior to the expiration of the Exercise Period and there remain any Warrant Shares subject to this Warrant Certificate, this Warrant Certificate shall be deemed to be automatically exercised in full for the full number of remaining Warrant Shares, without the requirement for the delivery of an Exercise Certificate, and the Holder shall receive its pro rata share of the proceeds from such Liquidity Event as if the Warrant Shares were outstanding immediately prior to the Liquidity Event (subject to set-off against the Aggregate Exercise Price); *provided that* unless the giving of notice is not possible due to the circumstances of the Liquidity Event, the Company shall give the Holder notice of any anticipated Liquidity Event as soon as practicable but in any event not less than ten (10) Business Days prior to the anticipated consummation of the Liquidity Event 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 Company in advance of the consummation of the Liquidity Event. For the avoidance of doubt, if the Holder opts out of having the Warrant Certificate exercised in connection with a Liquidity Event then, if the Liquidity Event involves a merger or consolidation of the Company with or into another entity and (x) the Company is the surviving entity, this Warrant Certificate shall continue to remain outstanding following the consummation of the Liquidity Event for the duration of the applicable Exercise Periods or (y) if the Company is not the surviving entity, this Warrant Certificate shall be reissued for equity securities in the entity that survives the Liquidity Event and shall remain outstanding for the duration of the applicable Exercise Periods..

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

(i) For the purpose of this Warrant Certificate, “**Acquisition**” means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license or other disposition of all or substantially all of the assets of the Company; (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company’s domicile), or any other corporate reorganization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation or reorganization, own less than a majority of the Company’s (or the surviving or successor entity’s) outstanding voting power immediately after such merger, consolidation or reorganization; or (iii) any sale or other transfer by the stockholders of the Company of shares representing a majority of the Company’s then-total outstanding combined voting power.

(ii) In the event of an Acquisition in which the consideration to be received by the Company’s stockholders 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 Company 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 thirty (30) days prior to the closing of the proposed Cash Acquisition. Notwithstanding the foregoing, if, immediately prior to the Cash Acquisition, the fair market value of one Warrant Share above would be greater than the applicable 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 Shares for which it shall not previously have been exercised, and the Company shall promptly notify the Holder of the number of shares of Common Stock (or such other securities) issued upon such exercise to the Holder.

(iv) Upon the closing of any Acquisition other than a Cash Acquisition defined above, 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 shares of Common Stock issuable upon exercise of the unexercised portion of this Warrant as if such shares of Common Stock 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 Company 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 shares of Common Stock equivalents

beneficially owned by the Holder and its affiliates shall include the number of shares of Common Stock equivalents issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock 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 Company (including, without limitation, any other Common Stock 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 Company 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 Company 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 shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the SEC, as the case may be, (B) a more recent public announcement by the Company, or (C) a more recent written notice from the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written request of a Holder, the Company shall within three (3) Business Days confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. The "**Beneficial Ownership Limitation**" shall be 9.99% of the number of shares of Common Stock and Common Stock equivalents outstanding immediately after giving effect to the applicable issuance of Warrant Shares issuable upon exercise of this Warrant if at the time of exercise the Company is a "reporting issuer" under the Securities Exchange Act of 1934. 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.

Section 4. Anti-Dilution Adjustments. In order to prevent dilution of the purchase rights granted under this Warrant Certificate, the number of Warrant Shares issuable upon exercise of

this Warrant Certificate shall be subject to adjustment from time to time as provided in this **Section 4**.

(a) **Adjustment to Number of Warrant Shares Upon Dividend, Subdivision or Combination of Common Stock.** If the Company shall, at any time or from time to time after the Issue Date, (i) pay a dividend or make any other distribution upon the Common Stock or any other capital stock of the Company payable in shares of Common Stock or in options or convertible securities, or (ii) subdivide (by any stock split, recapitalization or otherwise) its outstanding shares of Common Stock into a greater number of shares, the number of Warrant Shares issuable upon exercise of this Warrant Certificate immediately prior to any such dividend, distribution or subdivision shall be proportionately increased. If the Company at any time combines (by combination, reverse stock split or otherwise) its outstanding shares of Common Stock into a smaller number of shares, the number of Warrant Shares issuable upon exercise of this Warrant Certificate immediately prior to such combination shall be proportionately decreased. Any adjustment under this **Section 4(a)** shall become effective at the close of business on the date the dividend, subdivision or combination becomes effective

(b) **Adjustment to Number of Warrant Shares Upon Reorganization, Reclassification, Consolidation or Merger.**

(i) Unless the Holder otherwise consents (in its sole discretion), the event of any (A) capital reorganization of the Company, (B) reclassification of the stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of a stock dividend or subdivision, split-up or combination of shares), (C) Fundamental Change or (D) other similar transaction (other than any such transaction covered by **Section 3(m)** or **Section 4(a)**), including a Liquidity Event in which the Warrant Certificate is not exercised, in each case which entitles the holders of Common Stock to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock:

(1) this Warrant Certificate shall, immediately after such reorganization, reclassification, consolidation, 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 Shares then exercisable under this Warrant Certificate, be exercisable for the kind and number of shares of stock or other securities or assets of the Company or of the successor Person resulting from such transaction to which the Holder would have been entitled upon such reorganization, reclassification, consolidation, 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, merger, sale or similar transaction and acquired the applicable number of Warrant Shares 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 satisfactory to the Holder) 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 shares of stock, securities or assets thereafter acquirable upon exercise of this Warrant Certificate.

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

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

(c) **Certain Events.** If any event of the type contemplated by the provisions of this **Section 4** but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features) occurs, then the Board shall make an appropriate adjustment in the number of Warrant Shares issuable upon exercise of this Warrant Certificate so as to protect the rights of the Holder in a manner consistent with the provisions of this **Section 4**; provided that no such adjustment pursuant to this **Section 4(c)** shall decrease the number of Warrant Shares issuable hereunder as otherwise determined pursuant to this **Section 4**.

(d) **Certificate as to Adjustment.**

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

(e) **Notices.** In the event that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities 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 shares of capital stock of any class or any other securities, or to receive any other security; or

(ii) approving or enabling any capital reorganization of the Company, any reclassification of the Common Stock of the Company or any Fundamental Change;

then, and in each such case, the Company shall send or cause to be sent to the Holder at least thirty (30) 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 Company shall close or a record shall be taken with respect to which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon exercise of this Warrant Certificate) shall be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such Fundamental Change, and the amount per share and character of such exchange applicable to this Warrant Certificate and the Warrant Shares.

Section 5. Purchase Rights. In addition to any adjustments pursuant to **Section 4**, if at any time the Company grants, issues or sells any shares of Common Stock or rights to purchase capital stock, securities or other property *pro rata* to the record holders of Common Stock (the “**Purchase Rights**”), then the Holder shall be entitled (but not required) to acquire, upon the same terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder would have acquired if the Holder had held the number of Warrant Shares 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 Stock are to be determined for the grant, issue or sale of such Purchase Rights.

Section 6. Registration Rights.

(a) **Piggyback Registration Rights.** If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its securities, the Company shall, at such time, promptly give the Holder notice of such registration. Upon the request of the Holder given within twenty (20) days after such notice is given by the Company, the Company shall cause to be registered all of the Warrant Shares that the Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this **Section 6(a)** before the effective date of such registration, whether or not the Holder has elected to include Warrant Shares in such registration.

(b) **Demand Registration Rights.** In addition to the rights set forth in **Section 6(a)**, the Company shall use its commercially reasonable best efforts remain qualified to register securities under the Securities Act pursuant to a Registration Statement on Form S-3 or any successor form thereto. The Holder shall have the right to request up to three separate registrations of Warrant Shares on Form S-3 (or any similar short form registration statement) (a “**Demand Registration**”). Each Demand Registration request shall specify the approximate number of Warrant Shares to be registered on the applicable Registration Statement. Upon receipt of a Demand Registration request, the Company shall cause a Registration Statement on Form S-3 (or any successor form) to register that number of Warrant Shares set forth on the Demand Registration request to be filed within thirty (30) days after the date that the initial Demand Registration request is given and shall use its commercially reasonable best efforts to cause such Registration Statement to be declared effective by the SEC as soon as practicable thereafter. The Company shall notify the Holder promptly after the Company receives notice that the Registration Statement has been declared effective or a supplement to any Prospectus forming part of such Registration Statement has been filed. The Company shall notify the Holder of its receipt of any notice of the issuance of any stop order by the SEC suspending the effectiveness of such

Registration Statement (or the initiation or threatening of any proceedings for such purpose) and shall use its commercially reasonable best efforts to prevent the issuance of any such stop order or to obtain the withdrawal of such stop order, should it be issued. All expenses of a Demand Registration shall be borne by the Company unless the Demand Registration is withdrawn at the request of the Holder.

(c) **Company Obligations; Cooperation.** With respect to any Registration Statement covering any Warrant Shares, the Company shall be responsible for preparing and filing the Registration Statement, keeping such Registration Statement effective for a reasonable amount of time, preparing amendments and supplements to such Registration Statement, entering into a customary underwriting agreement with respect to such registration (if applicable), and complying with all other legal and regulatory requirements relating to such Registration Statement. The Holder shall reasonably cooperate with the Company with respect to the preparation and filing of any Registration Statement pursuant to which any of its Registrable Securities shall be registered. All expenses associated with a registration under this **Section 6** shall be borne by the Company.

(d) **Indemnification.**

(i) To the extent permitted by law, the Company 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, and the Company 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(d)(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 Company, which consent shall not be unreasonably withheld, nor shall the Company 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 Company, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, 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 Company 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(d)(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(d)** 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.

(e) **Rule 144 Reporting.** With a view to making available to the Holder the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit the Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(i) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for its initial public offering;

(ii) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(iii) furnish to the Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (A) to the extent accurate, a written statement by the Company that it qualifies as a registrant whose securities may be resold pursuant to Form S-3; and (B) such other information as may be reasonably requested in availing the Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration or pursuant to Form S-3.

Section 7. Warrant Register. The Company shall keep and properly maintain at its principal executive offices a register (the “**Warrant Register**”) for the registration of this Warrant Certificate and any transfers thereof. The Company 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 Company 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. Subject to **Section 12** hereof, this Warrant Certificate and all rights hereunder are transferable, in whole or in part, by the Holder without charge to the Holder, upon surrender of this Warrant Certificate to the Company at its then principal executive offices with a properly completed and duly executed Assignment in the form attached hereto as **Exhibit B**. Upon such compliance, surrender and delivery, the Company 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.

Section 9. The Holder Not Deemed a Stockholder; Limitations on Liability. Except as otherwise specifically provided herein, prior to the issuance to the Holder of the Warrant Shares 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 shares of capital stock of the Company 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 a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, 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 (upon exercise of this Warrant Certificate or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this **Section 9**, the Company shall provide the Holder with copies of the same notices and other information given to the stockholders of the Company generally, contemporaneously with the giving thereof to the stockholders.

Section 10.Replacement on Loss; Division and Combination.

(a) **Replacement of Warrant Certificate on Loss.** Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant Certificate and upon delivery of an indemnity reasonably satisfactory to it (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 Company, the Company at its own 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 Shares 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 Company 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 Company at its then principal executive offices, 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 Company shall at its own 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 Shares as this Warrant Certificate or Warrant Certificates so surrendered in accordance with such notice.

Section 11.No Impairment. The Company shall not, by amendment of its Certificate of Incorporation or Bylaws, through any shareholders, voting or similar agreement, or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, 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 Shares 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 Shares issued upon exercise of this Warrant Certificate (unless registered under the Securities Act) shall 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 SHARES 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 COMPANY REQUESTS, AN OPINION SATISFACTORY TO THE COMPANY TO SUCH EFFECT HAS BEEN RENDERED BY COUNSEL.”

(i) **Removal of Restrictive Legends.** Neither this Warrant Certificate nor any certificates evidencing Warrant Shares or any other shares of Common Stock 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 Shares is effective under the Securities Act, (B) following any sale of this Warrant Certificate, any Warrant Shares or any other shares of Common Stock issued or delivered to the Holder under or in connection here with pursuant to Rule 144, (C) if this Warrant Certificate, Warrant Shares or any other such share of Common Stock 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 Company 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 Shares or the or any other shares of 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 Shares or such other shares of equity securities, then this Warrant Certificate, Warrant Shares or other equity securities, as the case may be, shall be issued free of all legends.

(ii) **Replacement Warrant Certificate.** The Company agrees that at such time as the Unrestricted Conditions have been satisfied it shall promptly (but in any event within three (3) Business Days) following written request from the Holder issue a replacement Warrant Certificate or replacement Warrant Shares or replacement shares in respect of such other Common Stock, as the case may be, free of all restrictive legends.

(ii) **Sale of Unlegended Shares.** The Holder agrees that the removal of the restrictive legend from this Warrant Certificate and any certificates representing securities as set forth in **Section 12(a)(ii)** above is predicated upon the Company'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.

(a) **Representations of the Holder.** In connection with the issuance of this Warrant Certificate, the Holder specifically represents, as of the date hereof, to the Company by acceptance of this Warrant Certificate as follows:

(iii) 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 Shares 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 Shares, except pursuant to sales registered or exempted under the Securities Act.

(iv) The Holder understands and acknowledges that this Warrant Certificate and the Warrant Shares to be issued upon exercise hereof are "restricted securities" under the federal securities laws inasmuch as they are being acquired from the Company 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 under the Securities Act, as presently in effect, and understands the resale limitations imposed thereby and by the Securities Act.

(v) 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 Shares. The Holder has had an opportunity to ask questions

and receive answers from the Company regarding the terms and conditions of the offering of this Warrant Certificate and the business, properties, prospects and financial condition of the Company.

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 during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; 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 Company:

Biodesix, Inc.
2970 Wilderness Place, Suite 100
Boulder, CO 80301
Attention: Scott Hutton/Robin Harper Cowie

with a copy to:

Sidley Austin LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Attention: Frank Rahmani/Samir Gandhi

If to the Holder:

Perceptive Credit Holdings IV, LP
c/o Perceptive Advisors LLC
51 Astor Place, 10th Floor
New York, NY 10003
Attention: Sandeep Dixit

with a copy to:

Chapman and Cutler LLP
1270 Avenue of the Americas
New York, NY 10020
Attention: Nicholas Whitney

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 Company and the Holder acknowledges that a breach or threatened breach by such party of any of its obligations under this Warrant Certificate

would 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 equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction. The Holder and the Company further acknowledge and agree that (i) sums payable hereunder are meant to be treated as liquidated damages and not penalties, (ii) the amount of loss or damages likely to be incurred by the Holder as a result of the Company's breach of any its obligations hereunder is incapable or is difficult to precisely estimate, (iii) the amounts payable hereunder (and calculations in respect thereof) are reasonable and are not plainly or grossly disproportionate to the probable loss likely to be incurred by the Holder, and (iv) the parties hereto are sophisticated business parties and have been represented by sophisticated and able legal and financial counsel and negotiated this Agreement at arm's length.

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 Company 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 Company 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 Company 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 COMPANY 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 Company has duly executed this Warrant Certificate on the Issue Date.

BIODESIX, INC.

By: /s/ Robin Harper Cowie
Name: Robin Harper Cowie
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 shares of Common Stock of Biodesix, Inc. a Delaware corporation (the "**Company**"), pursuant to that certain Warrant Certificate of the Company, dated as of November 21, 2022 and bearing Warrant Certificate No. [] (the "**Warrant Certificate**"), hereby irrevocably elects to exercise the purchase right represented by such Warrant Certificate for, and to purchase thereunder, [] shares of Common Stock of the Company comprising [Initial Warrant Shares][Second Tranche Warrant Shares][Third Tranche Warrant Shares] 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 [] shares of Common Stock comprising [Initial Warrant Shares][Second Tranche Warrant Shares][Third Tranche Warrant 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 [] shares of Common Stock comprising [Initial Warrant Shares][Second Tranche Warrant Shares][Third Tranche Warrant Shares] using the method described in **Section 3(b)(ii)**.

_____ (check if applicable) The undersigned hereby elects to make payment of the Aggregate Exercise Price of [] Dollars (\$) for [] shares of Common Stock comprising [Initial Warrant Shares][Second Tranche Warrant Shares][Third Tranche Warrant Shares] using the method described in **Section 3(b)(iii)**.

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 Biodesix, Inc., a Delaware corporation (the “**Company**”), bearing Warrant Certificate No. [] (the “**Warrant Certificate**”), entitling the Holder to purchase up to [] shares of the Company’s Common Stock. 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 Shares entitled to be purchased upon exercise of the Warrant Certificate] [] of the [Initial Warrant Shares][Second Tranche Warrant Shares][Third Tranche Warrant Shares] entitled to be purchased upon exercise of the Warrant Certificate]. In furtherance of the foregoing assignment, the Holder hereby irrevocably instructs the Company 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 Shares 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 Shares to be issued upon exercise or conversion thereof except under circumstances which will not result in a violation of the Securities Act or any applicable state securities laws. The Assignee represents and warrants for the benefit of the Company that the Assignee is an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended.

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 Shares 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:

November 21, 2022

Biodesix, Inc.
2970 Wilderness Place, Suite 100
Boulder, CO 80301

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We refer to the Registration Statement on Form S-3, File No. 333-261095 (the "Registration Statement"), filed by Biodesix, Inc., a Delaware corporation (the "Company"), with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), which Registration Statement became effective upon filing pursuant to Rule 462(e) under the Securities Act. Pursuant to the Registration Statement, the Company is issuing 35,075,000 shares (the "Shares") of its Common Stock, \$0.001 par value per share. The Shares are to be sold by the Company pursuant to an underwriting agreement dated November 16, 2022 (the "Underwriting Agreement") among the Company and the Underwriter named therein.

This opinion letter is being delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

We have examined the Registration Statement, the Underwriting Agreement, the Company's certificate of incorporation and the resolutions adopted by the board of directors of the Company and the pricing committee thereof established by such board relating to the Registration Statement and the issuance of the Shares by the Company. We have also examined originals, or copies of originals certified to our satisfaction, of such agreements, documents, certificates and statements of the Company and other corporate documents and instruments, and have examined such questions of law, as we have considered relevant and necessary as a basis for this opinion letter. We have assumed the authenticity of all documents submitted to us as originals, the genuineness of all signatures, the legal capacity of all persons and the conformity with the original documents of any copies thereof submitted to us for examination. As to facts relevant to the opinions expressed herein, we have relied without independent investigation or verification upon, and assumed the accuracy and completeness of, certificates, letters and oral and written statements and representations of public officials and officers and other representatives of the Company.

Based on and subject to the foregoing and the other limitations, qualifications and assumptions set forth herein, we are of the opinion that:

SIDLEY

Biodesix, Inc.
November 21, 2022
Page 2

1. The issuance and sale of the Shares covered by the Registration Statement pursuant to the Underwriting Agreement have been duly authorized by the Company, and such Shares will be validly issued, fully paid and non-assessable when certificates representing such Shares shall have been duly executed, countersigned and registered and duly delivered to the purchasers thereof against payment of the agreed consideration therefor in accordance with the Underwriting Agreement.

This opinion letter is limited to the General Corporation Law of the State of Delaware. We express no opinion as to the laws, rules or regulations of any other jurisdiction, including, without limitation, the federal laws of the United States of America or any state securities or blue sky laws.

We hereby consent to the filing of this opinion letter as an Exhibit to the Registration Statement and to all references to our Firm included in or made a part of the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Sidley Austin LLP

CREDIT AGREEMENT AND GUARANTY

dated as of

NOVEMBER 16, 2022

among

BIODESIX, 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

\$50,000,000

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EXHIBIT B — Form of Borrowing Notice
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EXHIBIT F — Form of Assignment Agreement
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EXHIBIT I — Form of Collateral Questionnaire
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CREDIT AGREEMENT AND GUARANTY, dated as of November 16, 2022 (this “*Agreement*”), among BIODESIX, 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 the Lenders to make 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 an amalgamation, plan of arrangement, merger, purchase of Equity Interests or other assets, or similar transaction having the same effect as any of the foregoing, (a) acquires all or substantially all of the assets of any other Person, (b) acquires any business or all or substantially all of a business line or unit or division of any other Person, (c) acquires Control of Equity Interests of another Person representing more than fifty (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, determined on a fully diluted basis, as if converted or exercised basis, or (d) acquires Control of more than fifty (50)% of the Equity Interests in any Person engaged in any business that is not managed by a Board or other governing body, determined on a fully diluted, as if converted or exercised basis.

“*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 *U.S. Foreign Corrupt Practices Act of 1977*, as amended (15 U.S.C. §§78dd-1 et seq.).

“*Anti-Terrorism Laws*” means any laws or regulations relating to terrorist financing-related activities 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 (Title III of Pub. L. 107-56) (the “*Patriot Act*”), and any similar law enacted in the United States after the date of this Agreement.

“*Applicable Margin*” means 9.00% per annum.

“*Approved Fund*” means any Person (other than a natural person and any holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit in the ordinary course of its activities and that is administered, advised 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 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 Term SOFR; *provided* that if a Benchmark Transition Event has occurred with respect to 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 as the replacement for such Benchmark 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 at such time and (ii) the related Benchmark Replacement Adjustment;

provided, that, until such alternate rate of interest is agreed upon by the Administrative Agent and the Borrower, the rate of interest for purposes hereof and of each other Loan Document shall be Term SOFR (or subsequent Benchmark, as applicable), as of the end of the Interest Period ending immediately prior to the applicable Benchmark Transition Event.

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 for any applicable Available Tenor, 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).

“*Benchmark Unavailability Period*” means, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.02(c) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.02(c).

“*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 a Tranche A Loan made by the Lenders on the Funding Date, a Tranche B Loan made by the Lenders on the Tranche B Loan Borrowing Date, or a Tranche C Loan made by the Lenders on the Tranche C Loan Borrowing Date, as applicable.

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

“*Business Day*” means (a) a day (other than a Saturday or Sunday) on which commercial banks are not authorized or required to close in New York City or (b) with respect to any matters relating to SOFR Loans, a U.S. Government Securities Business Day.

“*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; *provided* that any lease that would be characterized as an operating lease in accordance with GAAP on December 31, 2018 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a capital lease) for purposes of this Agreement regardless of any change in GAAP following December 31, 2018 that would otherwise require such lease to be recharacterized (on a prospective or retroactive basis or otherwise) as a capital lease.

“*Caprion License*” means that certain Know How License Agreement, dated as of May 13, 2021 by and between the Borrower and Cellcarta Biosciences Inc. (formerly known as Caprion Biosciences, Inc.), as in effect on the Closing Date.

“*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 40% or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of 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 Borrower by Persons who were neither (i) nominated or approved by the Board of Borrower, nor (ii) appointed by directors on the Board of the Borrower on the Closing Date; and

(c) the Borrower shall cease to own directly or indirectly, determined on a fully diluted basis, 100% of the issued and outstanding Equity Interests of any other Obligor.

“*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 of 1988 (CLIA), as amended from time to time, and the rules and regulations 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 Administrative Agent.

“*Code*” means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder 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 Access Agreement*” means any landlord waiver or similar agreement, in form and substance reasonably satisfactory to the Administrative Agent, between the Administrative Agent and any third party (including any bailee, consignee, customs broker, or other similar

Person) in possession of any Collateral, any landlord of any real property where any Collateral is located or any landlord of the real property which is the chief executive office.

“*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 Loan Commitment, (b) Tranche B Loan Commitment and (c) Tranche C 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 \$50,000,000.

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

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

“*Confidential Healthcare Information*” has the meaning set forth in Section 8.06.

“*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 reasonably determines (in consultation with the Borrower) 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 reasonably determines (in consultation with the Borrower) 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 reasonably determines (in consultation with the Borrower) 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;
- (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; or
- (c) with which the Lenders are prohibited from dealing or otherwise engaging in any transaction by any Economic Sanctions Laws.

“*Device*” means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory that meets the definition of “device” as set forth in Section 201 of the FD&C Act, as limited by other provisions therein, including but not limited to Section 520 of the FD&C Act, developed by the Obligors.

“*Device Clearance Application*” means (i) any premarket approval application submitted under Section 515 of the FD&C Act (21 U.S.C. § 360e) (a “PMA”), (ii) any de novo request submitted under Section 513(f) of the FD&C Act (21 U.S.C. § 360c(f)), (iii) any 510(k) submitted under Section 510(k) of the FD&C Act (21 U.S.C. § 360(k)) seeking clearance from the FDA for a Device that is substantially equivalent to a legally marketed predicate Device, as defined in the FD&C Act (a “510(k)”), (iv) any corresponding or substantially equivalent notification, application or clearance of a non-U.S. Regulatory Authority including, with respect to the European Union, any equivalent submission to a Standard Body pursuant to an applicable directive of the European Council with respect to CE marking (or, if applicable, a self-certification of conformity with respect to any such directive through a “declaration of conformity”), and (v) all amendments, variations, extension and renewals of any of the foregoing.

“*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 (i) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), including pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (iii) provides for the scheduled payments of dividends or other distributions in cash or other securities that would constitute Disqualified Equity Interests, or (iv) 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.

“*Disqualified Lender*” means (a) any Person identified to the Administrative Agent in writing on or prior to the Closing Date who in the reasonable estimation of the Borrower are (i) direct competitors of the Borrower, (ii) vulture funds or (iii) distressed debt funds, (b) any other Person identified by name in writing to the Administrative Agent after the Closing Date to the extent such Person is or becomes a competitor of Borrower or its Subsidiaries, (c) any other Person identified by name in writing to the Administrative Agent after the Closing Date to extent the Borrower reasonably determines in consultation with the Administrative Agent that such Person is a (i) vulture fund or (ii) distressed fund, and (d) any Affiliate of any Person referred to in clauses (a) through (c) above (other than bona fide fixed income investors or debt funds that are Affiliates of competitors, vulture funds or distressed debt funds).

“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 (including a failure related to contingent liability on account of 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; (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, other employee wage and benefit payments to or for the benefit of the employees of the Borrower and its Subsidiaries, (b) Deposit Accounts with aggregate balances of \$250,000 or less at any time, (c) zero balance accounts, (d) any escrow account, trust account, or deposit account otherwise maintained solely for the benefit of third parties as cash collateral for obligations owing to such third parties or to establish or maintain escrow amounts for third-parties with aggregate balances of \$100,000 or less at any time and (e) Segregated Health Care Accounts.

“*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 Lender to the extent that the obligation to withhold amounts existed on the date that (i) Lender became a “Lender” under this Agreement or (ii) Lender changes its lending office, except in each case to the extent 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 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(f).

“*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 Agreements*” means (a) that certain Loan and Security Agreement, dated as of March 19, 2021, by and between Silicon Valley Bank and the Borrower and (b) that certain Securities Purchase Agreement, dated as of May 9, 2022, by and between the Borrower and Streeterville Capital, LLC, in each case, as may be amended, restated, amended and restated, supplemented or otherwise modified prior to the Funding Date.

“*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 Federal Food, Drug and Cosmetic Act of 1938 (or any successor thereto), as amended from time to time, and the rules and regulations issued or promulgated thereunder.

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

“*FDA Laws*” means all applicable statutes, rules, regulations and orders administered or issued by the FDA, including without limitation, the FD&C Act and its implementing regulations.

“*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.

“*Fee Letter*” means that certain Fee Letter, dated as of the Closing Date, among the Obligor, the Lenders and the Administrative Agent.

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

“*Floor*” means a rate of interest equal to 3.00%.

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

“*Funding Date*” means the Business Day on which all of the conditions set forth in Section 6.02 have been satisfied or waived by the Administrative Agent and the Tranche A Loan is made.

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

“*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).

“*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 monetary 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 monetary 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 monetary 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 monetary obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation; *provided*, that the term Guarantee shall not include endorsements for collection or deposit 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 and the Funding 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).

“*Healthcare Laws*” means, collectively, all Laws applicable to the business of any Obligor regulating the manufacturing, sale, distribution, labeling, marketing, or promotion, the export, or the provision of and payment for, health care products (including diagnostic products) or healthcare items and services, including (a) all applicable laws relating to the privacy or security of consumer information, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) (“*HIPAA*”) and any similar state laws; (b) all applicable federal and state healthcare fraud and abuse laws, including but not limited to the federal Anti-Kickback Statute (42 U.S.C. §1320a-7b(b)) and any similar state laws, the Eliminating Kickbacks in Recovery Act (18 U.S.C. § 220), the federal Physician Self-Referral Prohibition (commonly referred to as the “*Stark Law*”) (42 U.S.C. § 1395nn) and any similar state laws, the Civil Monetary Penalties Act (42 U.S.C. §1320a-7a), and the civil False Claims Act (31 U.S.C. §3729 *et seq.* and any similar state laws); (c) all applicable FDA Laws; (d) CLIA and other applicable laws relating to clinical laboratory operations; (e) all applicable laws regarding the provision of health care supplies, items or services to Federal Health Care Program beneficiaries or the billing of the Federal Health Care Programs; and (f) 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*” has the meaning set forth in the definition of “Healthcare Laws”.

“*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) any Disqualified Equity Interests of such Person, (m) 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 (n) 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.

“*Indi Purchase Agreement*” means that certain Asset Purchase Agreement and Plan of Reorganization, dated as of June 30, 2018, by and among the Borrower, Integrated Diagnostics, Inc. and IND Funding LLC, as amended by that certain Amendment No. 1 to Asset Purchase Agreement and Plan of Reorganization dated as of July 29, 2021, that certain Amendment No. 2 to Asset Purchase Agreement and Plan of Reorganization dated as of August 9, 2021, that certain Amendment No. 3 to Asset Purchase Agreement and Plan of Reorganization dated as of April 7, 2022 and as may be further amended, amended and restated or otherwise modified to the extent permitted by Section 9.12.

“*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 any country or any political subdivision thereof.

“*Ineligible Assignee*” means (a) a natural person, (b) the Obligors or any of their respective Affiliates and (c) so long as no Event of Default shall have occurred and is continuing, to any Person who is a Disqualified Lender.

“*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 Loan, (i) initially, the period beginning on (and including) the Funding Date and ending on (and including) the last day of the calendar month in which the Funding 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 Loan, (i) the period commencing on (and including) the Tranche B Loan Borrowing Date and ending on (and including) the last day of the calendar month in which the Tranche B 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 (c) as to the Tranche C Loan, (i) the period commencing on (and including) the Tranche C Loan Borrowing Date and ending on (and including) the last day of the calendar month in which the Tranche C 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 Device), manufacture or composition of matter, or any novel, inventive and useful improvement in any art, method, process, machine (including any article or Device), 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 (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 one hundred and twenty (120) 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 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.

“*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.

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

“*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 Collateral Access Agreement, the Fee Letter, any Guarantee Assumption Agreement, the Warrant Certificate 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, 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 the Term Loans, the Loan Exposure of any Lender shall be equal to such Lender’s Commitment.

“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, reasonable professional fees, including the reasonable and documented out-of-pocket fees and disbursements of legal counsel on a full indemnity basis, and all reasonable 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” means (a) a material adverse change in, or a material adverse effect on, the operations, business, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole; or (b) a material adverse effect on (i) the ability of the Borrower to perform its Obligations when they become due, (ii) the legality, validity, binding effect or enforceability against the Borrower of any Loan Document to which it is a party or (iii) the rights, remedies and benefits available to, or conferred upon, the Administrative Agent or any Lender under any Loan Document.

“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, (c) the Indi Purchase Agreement and (d) 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 \$2,000,000 or (ii) require payments or expenditures (including royalty, licensing or similar payments) made by any Obligor in an aggregate amount in excess of \$2,000,000; *provided* that for the avoidance of doubt routine purchase orders entered into in the Ordinary Course of Business shall not be deemed to be Material Agreements.

“Material Indebtedness” means, at any time, any Indebtedness of any Obligor, the outstanding principal amount of which, individually or in the aggregate, exceeds \$500,000.

“Material Intellectual Property” means all Obligor Intellectual Property, including those described in Schedule 7.05(b), whether currently owned or licensed, or acquired, developed or otherwise licensed or obtained after the date hereof (a) necessary for the operation of the business of any Obligor as currently conducted or as currently contemplated to be conducted, (b) the loss of which would reasonably be expected to have or result in a Material Adverse Effect or (c) that has a fair market value in excess of \$1,000,000 (as such fair market value is determined in the reasonable judgment of the Obligors).

“*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.

“*Milestone Payment*” has the meaning assigned to such term in Section 1.9 of the Indi Purchase Agreement as in effect on the Closing Date.

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

“*Net Cash Proceeds*” means,

(a) with respect to the incurrence or issuance of any Indebtedness incurred by an Obligor not permitted under Section 9.01, the excess, if any, of (i) the sum of the cash received in connection with such incurrence or issuance over (ii) the investment banking fees, underwriting discounts, commissions, costs and other reasonable expenses and other customary expenses (including reasonable attorney’s accountant’s and other similar professional advisor’s fees), incurred by such obligor in connection with such incurrence or issuance to third parties (other than any other Obligor or any of their respective Affiliates);

(b) with respect to any Casualty Event, the amount of cash proceeds actually received in the form of insurance proceeds or condemnation awards in respect of such Casualty Event 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

(c) with respect to any Asset Sale (other than transfers or sales of assets permitted pursuant to Section 9.09 (other than 9.09(i)), 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 other fees, expenses (including fees, charges and disbursement of counsel), 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 or licensed to any Obligor at such time.

“*Obligors*” means, collectively, the Borrower, each Guarantor and each of their respective successors and permitted assigns.

“*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(h)).

“*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 accreditation organization approved by a Governmental Authority, including, without limitation, those issued pursuant to Environmental Laws and Healthcare Laws.

“*Permitted Acquisition*” means any Acquisition by any Obligor or any of their wholly-owned Subsidiaries, by (a) purchase, merger, amalgamation, plan of arrangement, 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, off-the-shelf or 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 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 Borrower and/or its Subsidiaries are engaged or a business reasonably and substantially related thereto or (B) shall have a similar customer base as Borrower and/or its Subsidiaries;

(v) 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 due diligence conducted by or on behalf of Borrower or the applicable Subsidiary prior to such Acquisition;

(vi) 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;

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

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

“Permitted Cash Equivalent Investments” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any state thereof, or by an instrumentality or agency of them with an equivalent credit rating having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper with an average maturity of no more than one (1) year and having the 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 maturing no more than one (1) year after issue, and (e) other similar Investments permitted by the Borrower's investment policy delivered to the Administrative Agent prior to the Closing Date, as amended from time to time, so long as such investment policy and any such amounts have been approved by the Administrative Agent in advance in its sole discretion.

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

"Permitted Licenses" means (a)(i) licenses of off-the-shelf or over-the-counter or open-source software that is commercially available to the public, (ii) inbound licenses for the use of any Patents, Trademarks, Copyrights, Industrial Designs and Technical Information of any third party, (iii) non-exclusive licenses for the use of Obligor Intellectual Property and (iv) immaterial Intellectual Property licensed to Borrower or any of its Subsidiaries, 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 such license does not materially impair the Lenders from exercising their rights under any of the Loan Documents and (b) the Caprion License.

"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 (except in the amount of accrued interest, reasonable and documented upfront and other fees and transaction costs), (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) at the time of and immediately after giving effect to the refinancing, extension, renewal or replacement, no Default shall have occurred and be continuing.

"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 (a) those Devices set forth (and described in reasonable detail) on Schedule 3 attached hereto and (b) any current or future Device subject to any Product

Development and Commercialization Activities by any Obligor, including any such Device currently in development.

“*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 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 rights, title and interest of the Obligors under any Product Agreement related to such Product or any such Product Development and Commercialization Activities, (d) any rights, title and interest of the Obligors to 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 of the Obligors 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 Authorizations*” means any and all Regulatory Approvals (including all applicable Device Clearance Applications, supplements, amendments, governmental price and reimbursement approvals and approvals of applications for regulatory exclusivity), clearances, licenses, notifications, registrations, safety or quality specifications and standards, or any other authorizations of any applicable Regulatory Authority in each case necessary for the manufacturing, development, distribution, ownership, use, storage, import, export, transport, promotion, marketing, sale or other commercialization of any Product or for any Product Development and Commercialization Activities with respect thereto in any country or jurisdiction, whether U.S. or non-U.S.

“*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 Borrower

or any of its Subsidiaries that are necessary or required for any Product Development and Commercialization Activities by any Obligor 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 Product Authorization or other 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 by any Obligor 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 October 17, 2022, 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).

“*Refinancing*” has the meaning set forth in Section 2.05(b).

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

“*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, including any Product Authorizations with respect thereto.

“*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 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, chief financial officer, chief accounting officer or titles equivalent to the foregoing of such Person.

“*Restricted Payment*” means any dividend or other distribution (whether in cash, Equity Interest or other Property) with respect to any Equity Interest of an Obligor or any of its Subsidiaries, or any payment (whether in cash, Equity Interests 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 such 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 and (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)), 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 (other than restrictions or encumbrances that do not materially and adversely impact the ability of the Borrower to pay any Obligations when due).

“*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 Funding Date, in substantially the form of Exhibit G, among the Obligors 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 third party payers pertaining to clinical diagnostic testing claims including funds from 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 and as amended, modified or replaced from time to time.

“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).

“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.

“Specified Representations” means the representations and warranties made by the Borrower and the other Obligor, as applicable, set forth in Section 7.01(a), (b), (d) and (e), 7.02 (solely to the extent relating to this Agreement and the Fee Letter), 7.03(c), 7.04(c), 7.06(a), 7.10(a), 7.12, 7.23, 7.24 and 7.25.

“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 Funding 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 Agent, between the Obligor maintaining a Segregated Health Care Account, 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 Administrative Agent may agree in its reasonable discretion or as may be required by applicable Federal Health Care Program laws or policies 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 or penalties applicable thereto.

“*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 Loan, the Tranche B Loan and the Tranche C 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.

“*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 with respect to which any Obligor has or may have liability (including on account of an ERISA Affiliate) 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 Loan*” means each 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 Loan on any date of determination shall mean the aggregate principal amount of the Tranche A Loan made pursuant to Section 2.01(a) that has not yet been repaid as of such date.

“*Tranche A Loan Commitment*” means the commitment of a Lender to make or otherwise fund a Tranche A Loan and “*Tranche A Loan Commitments*” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Tranche A Loan Commitment, if any, is set forth on Schedule 1. The aggregate amount of the Tranche A Loan Commitments as of the Closing Date is \$30,000,000.

“*Tranche B Loan*” means each 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 Loan on any date of determination shall mean the aggregate principal amount of the Tranche B Loan made pursuant to Section 2.01(b) that has not yet been repaid as of such date.

“*Tranche B Loan Borrowing Date*” means with respect to the Tranche B 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 B Loan is made hereunder.

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

“*Tranche B Loan Commitment Termination Date*” means December 31, 2023.

“*Tranche C Loan*” means each 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 Loan on any date of determination shall mean the aggregate principal amount of the Tranche C Loan made pursuant to Section 2.01(c) that has not yet been repaid as of such date.

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

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

“*Tranche C Loan Commitment Termination Date*” means September 30, 2024.

“*Transactions*” means (a) 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 and (b) the Refinancing.

“*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 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, substantially in the form of Exhibit J, to be delivered to the Administrative Agent pursuant to Section 6.02(a)(ii) that, among other things, grants the holder thereof the right to purchase the number of common shares of 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; *provided* that any term or provision hereof or of any other Loan Document to the contrary notwithstanding, neither the Borrower nor any other Person is providing (or intends to provide) the holder of the Warrant Certificate with any Guarantee or assurance of economic return or against risk of loss in respect of the Warrant Certificate or any Equity Interests issuable upon exercise thereof and neither the term “Obligations” nor the term “Warrant Obligations” shall be deemed to include, directly or indirectly, and such Guarantee or assurance.

“*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 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.

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”; (h) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), unless otherwise expressly stated to the contrary; (i) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof; and (j) 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, 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 Loan.*

(i) Subject to the terms and conditions of this Agreement and relying on the representations and warranties set forth herein, each Lender, severally and not jointly, agrees to provide its share of the Tranche A Loan to the Borrower on the Funding Date in Dollars in a principal amount equal to such Lender's Tranche A Loan Commitment. No Lender shall have an obligation to make a Tranche A Loan in excess of such Lender's Tranche A 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 one (1) Business Day in advance of the Funding Date.

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

(b) *Tranche B Loan.*

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

(ii) Subject to the terms and conditions of this Agreement (including Section 6.03), 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 Loan Borrowing Date.

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

(c) *Tranche C Loan.*

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

(ii) Subject to the terms and conditions of this Agreement (including Section 6.04), 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 Loan Borrowing Date.

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

(d) Any principal amount of the Term Loans borrowed under Section 2.01(a), (b) or (c) 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. The Borrower shall pay to the Administrative Agent, in accordance with the provisions of the Fee Letter, and for distribution to each Lender in accordance with its Pro Rata Share of the Term Loans, the Funding 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 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,
- (b) to refinance the Existing Credit Agreements (the "*Refinancing*"), and
- (c) to pay, in accordance with the funds flow attached to the Borrowing Notice, reasonable and documented out-of-pocket 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, administration, adoption or 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 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 any setting of the then-current Benchmark, then (x) 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 (y) 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 (x) the implementation of any Benchmark Replacement and (y) 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 reasonable 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),

(x) if the then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (A) 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 (B) the administrator of such Benchmark or 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 or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks, 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, non-compliant or non-aligned tenor and (y) if a tenor that was removed pursuant to clause (x) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative or in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks 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 written notice from the Administrative Agent following the occurrence and during the continuance of any Event of Default, 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 Majority Lenders.

(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 Funding 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 Funding Date and on or prior to the second anniversary of the Funding 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 Funding Date and on or prior to the third anniversary of the Funding 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 Funding Date and on or prior to the fourth anniversary of the Funding Date, the Prepayment Premium shall be an amount equal to five percent (5%) of the aggregate outstanding

principal amount of the Term Loans being prepaid on such Redemption Date; and

(E) after the fourth anniversary of the Funding Date and on or prior to the date that is six (6) months 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 on or prior to the third (3rd) Business Day following the occurrence of any applicable event under clauses (i) through (iii) below, 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) In the event 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 Obligors may apply the Net Cash Proceeds of any casualty policy not exceeding \$2,500,000 in the aggregate for all losses under all Casualty Events during the term of this Agreement toward the replacement or repair of destroyed or damaged property; *provided, further*, that any such replaced or repaired 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 Net Cash 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(i)), 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 Obligors may use such Net Cash Proceeds not exceeding \$2,500,000 in the aggregate for all Asset Sales during the term of this Agreement, to purchase, replace, repair or restore properties or assets used in the Obligors' businesses;

provided, further, that any such purchased, replaced, repaired or restored 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 unmaturing 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

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 4:00 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.* 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, (x) interest payable pursuant to Section 3.02(d) and (y) any Prepayment Premium, if applicable;
- (iii) *third*, in reduction of the Borrower's obligation to pay any Claims or Losses referred to in Section 13.03(b) then due and owing;
- (iv) *fourth*, to the payment of unpaid principal of the Term Loans on a pro rata basis;
- (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.

(c) *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 4:00 p.m. (New York City time) on the Business Day 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. Any Person exercising rights of set off hereunder agrees 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 Administrative Agent, the Lenders and each of 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

Section 5.01. Additional Costs.

(a) *Change in Requirements of Law Generally.* If, on or after the date hereof (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement), 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 (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement), 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 Commitment, 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) Taxes described in clauses (b) through (d) of the definition of “*Excluded Taxes*” and (iii) Connection Income Taxes), then the Borrower shall promptly pay to such Lender on demand such additional amount or amounts as will compensate such Lender for such increased cost or reduction. 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 (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement), 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 (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement), 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) would have achieved but for such adoption, change, request or directive by an amount reasonably deemed by it to be material, then the Borrower shall promptly pay to such Lender within three (3) Business Days after demand such additional amount or amounts as will compensate such Lender (or its parent) for such reduction.

(c) *Notification by Lender.* The Lenders will promptly notify the Borrower of any event of which it has knowledge, occurring after the date hereof (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement), 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 (x) will, in the reasonable judgment of such Lender, avoid the need for, or reduce the amount of, such compensation and (y) 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 in reasonable detail, the computation of the additional amount or amounts to be paid to it hereunder, shall be conclusive and binding on the Borrower in the absence of manifest error.

Section 5.02. Illegality. Notwithstanding any other provision of this Agreement, in the event that on or after the date hereof (or, with respect to any Lender that becomes a party hereto, such later date on which such Lender comes party to this Agreement) 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 reasonable 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 the Borrower 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); *provided*, that no Prepayment Premium pursuant to Section 3.03(a)(ii) shall be due with respect thereto.

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) 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 Borrower.* The Borrower 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 the Borrower 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.* The Borrower 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 Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower 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;

(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 or the Administrative Agent as may be necessary for the Borrower or 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; and

(E) on or before the date the Administrative Agent (or any successor thereto) becomes a party to this Agreement, the Administrative Agent shall provide to the Borrower, a duly completed, valid copy of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing its agreement with the Borrower to be treated as a U.S. Person for U.S. federal withholding purposes. At any time thereafter, the Administrative Agent shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower.

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 reasonable 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 the Borrower is 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 out-of-pocket 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 Borrower 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 Closing Date. The obligation of each Lender to enter into this Agreement 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:

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

(c) *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 Borrower and each of the other parties hereto.

(ii) *Collateral Questionnaire.* 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 satisfactory to the Administrative Agent.

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

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

(v) *Organizational Documents.* (A) Certified copies of the Organizational 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; (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 (except where failure to be in good standing would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), each dated a recent date prior to the Closing Date; and (C) such other documents as the Administrative Agent may reasonably request.

(vi) *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.

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

(viii) *Opinion of Counsel.* A favorable opinion, dated as of the Closing Date, of Sidley Austin LLP, counsel to each Obligor in form reasonably acceptable to the Administrative Agent and its counsel.

(ix) *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.

(d) *Documents in Agreed Form.* 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) UCC-1 financing statement in form and substance satisfactory to the Administrative Agent.
- (ii) the Security Agreement;
- (iii) the Short-Form IP Security Agreements; and
- (iv) the Warrant Certificate.

(e) *Indebtedness.* As of the Closing Date, no Obligor shall have any Indebtedness other than the Obligations, Permitted Indebtedness, Indebtedness evidenced by the Existing Credit Agreements and any Indebtedness specified on Schedule 7.13A.

(f) *Representations and Warranties .* The Specified Representations 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.

(g) *No Default.* No Default shall exist.

The execution of this Agreement shall constitute a certification by the Borrower, the Administrative Agent and the Lenders to the effect that the conditions set forth in Section 6.01 have been fulfilled as of the Closing Date.

Section 6.02. Conditions to Funding Date; Tranche A Loan. The obligation of each Lender to make the Tranche A Loan on the Funding 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 Loan hereunder):

(a) *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) *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 satisfactory to the Administrative Agent.

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

(iii) *Security Documents.*

(A) The Security Documents, including, without limitation, the Security Agreement, each Short-Form IP Security Agreement and financing statements, duly executed and delivered by each of the Obligor and the other parties thereto.

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

(iv) *Opinion of Counsel.* A favorable opinion, dated as of the Funding Date, of Sidley Austin LLP, counsel to each Obligor in form reasonably acceptable to the Administrative Agent and its counsel.

(v) *Officer's Certificate.* A certificate, in form and substance satisfactory to the Administrative Agent, dated as of the Funding Date and signed by a Responsible Officer of the Borrower: (A) confirming compliance with the conditions set forth in subsections (d), (e) and (f) of this Section 6.02, (B) certifying that the applicable names, titles and officers of each Obligor have not changed since the Closing Date and (C) confirming that the Organizational Documents of each Obligor have not changed since the Closing Date.

(vi) If the Funding Date occurs more than thirty (30) days after the Closing Date:

(A) *Good Standing Certificates.* A good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Obligor's jurisdiction of incorporation or organization, and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business (except where failure to be in good standing would not, either

individually or in the aggregate, reasonably be expected to have a Material Adverse Effect), each dated a recent date prior to the Funding Date.

(B) *Bringdown Lien Searches.* The Administrative Agent shall be satisfied with bringdown Lien searches regarding the Obligors made prior to the Funding Date.

(b) *Funding Fees and Expenses.* The Lenders and their Affiliates shall have received for their own account, the Funding Fee and all fees, costs and expenses due (including applicable attorney costs and the reasonable and documented out-of-pocket fees and expenses of any other advisors to the Lenders) and payable pursuant to Section 13.03.

(c) *Indebtedness.* As of the Funding Date, after giving effect to the Transactions, no Obligor shall have any Indebtedness other than the Obligations, the Permitted Indebtedness and any Indebtedness specified on Schedule 7.13A. The Indebtedness evidenced by the Existing Credit Agreements shall have been repaid in full, all commitments (if any) in respect thereof terminated, 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.

(d) *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 Funding 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.

(e) *Required Equity Financing.* The Borrower shall have raised new equity resulting in gross proceeds of at least \$30,000,000, on terms reasonably satisfactory to the Administrative Agent.

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

Section 6.03. Conditions to Tranche B Loan; Tranche B Loan Borrowing Date. The obligation of each Lender to make the Tranche B Loan on the Tranche B 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 Loan hereunder):

(a) *Tranche B Loan Commitment Termination Date.* The Tranche B 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 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 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 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 subsections (c), (d) and (f) of this Section 6.03.

(f) *Milestone.* The Administrative Agent shall have received evidence reasonably satisfactory to the Administrative Agent that the Borrower has achieved Net Revenue of at least \$65,000,000 for any twelve (12) consecutive month period prior to the Tranche B Borrowing Date.

(g) *Expenses.* The Lenders and their Affiliates shall have received for their own account, all fees, costs and expenses due (including applicable attorney costs and the reasonable and documented out-of-pocket fees and expenses of any other advisors to the Lenders) and payable pursuant to Section 13.03.

Section 6.04. Conditions to Tranche C Loan; Tranche C Loan Borrowing Date. The obligation of each Lender to make the Tranche C Loan on the Tranche C 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 Loan hereunder):

(a) *Tranche C Loan Commitment Termination Date.* The Tranche C 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(c)(ii) requesting the Borrowing of the Tranche C 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 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 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 subsections (c), (d) and (f) of this Section 6.04.

(f) *Milestone.* The Administrative Agent shall have received evidence reasonably satisfactory to the Administrative Agent that the Borrower has achieved Net Revenue of at least \$95,000,000 for any twelve (12) consecutive month period prior to the Tranche C Borrowing Date.

(g) *Expenses.* The Lenders and their Affiliates shall have received for their own account, all fees, costs and expenses due (including applicable attorney costs and the reasonable and documented out-of-pocket fees and expenses of any other advisors to the Lenders) and payable pursuant to Section 13.03.

The borrowing of the Term Loans shall constitute a certification by the Borrower to the effect that the conditions set forth in Section 6.02, 6.03 and 6.04, as applicable, have been fulfilled as of the Funding Date, the Tranche B Loan Borrowing Date or the Tranche C 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 (solely with respect to the Specified Representations), on the Funding Date, on the Tranche B Loan Borrowing Date and on the Tranche C 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, (c) has all material Governmental 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, (d) 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 result in a Material Adverse Effect, and (e) has full power, authority and legal right to make and perform its obligations under 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) prior to the Funding Date, those consents and approvals required by the Indebtedness set forth on Schedule 7.13(A) which is subject to the Refinancing, (ii) such as have been obtained or made and are in full force and effect and (iii) 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 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 the Organizational Documents of any Obligor other than any such violations that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (d) will not violate or result in a default under any Material Agreement, or give rise to a right thereunder to require any 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 Borrower has heretofore furnished to the Administrative Agent certain consolidated financial statements as provided for in Section 8.01. Such financial statements present fairly, in all material respects, the consolidated 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. As of the date of such financial statements, no Obligor has any material contingent liabilities, 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 reasonable assumptions made by the management of the Borrower; *provided*, the Projections 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; *provided, further*, as of the Closing Date, the management of the Borrower believes that the Projections are reasonable and attainable, as of the date prepared.

(c) *No Material Adverse Change.* Since December 31, 2021 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.* With respect to all real and personal assets and properties of each Obligor and each of its Subsidiaries (other than Intellectual Property which is covered by clause (b) below), such Obligor and each of its Subsidiaries has valid 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. No Obligor or any Subsidiary thereof owns any real property in fee simple as of the Closing Date and the Funding Date.

(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 owned by or exclusively licensed to such Obligor, including the applicable jurisdiction, registration or application number and date, as applicable thereto, a designation as to whether it is Material Intellectual Property.

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

(iii) The Material Intellectual Property does not violate any license or infringe any valid and enforceable Intellectual Property right of another, that either individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

(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 Material Intellectual Property owned by an Obligor, 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 in the past twelve (12) months, 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 Material Intellectual Property owned by such Obligor; or (B) challenging the validity, enforceability or scope of any Material Intellectual Property owned by an Obligor.

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

(viii) Each Obligor has complied in all material respects 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 within the Material Intellectual Property owned by an Obligor and, to each Obligor's knowledge, the Patents within the Material Intellectual Property licensed to such Obligor 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 within the Material Intellectual Property owned by an Obligor and, to each Obligor's knowledge, the Material Intellectual Property licensed to such Obligor 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 the applicable applications for any of the Patents within the Material Intellectual Property owned by an Obligor and (B) no such Patents within the Material Intellectual Property owned by an Obligor 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 in the past twelve (12) months asserting that the Patents within the Material Intellectual Property owned by an Obligor are invalid, unpatentable or unenforceable 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 within the Material Intellectual Property.

(xii) Each employee and consultant with access to Material Intellectual Property has signed a written agreement assigning to the applicable Obligor all intellectual property rights that are created or developed by such employee or consultant, as applicable, on behalf of such Obligor with respect 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 any Material Intellectual Property, or violating any material license or agreement with such Obligor relating to any Material Intellectual Property.

Section 7.06. No Actions or Proceedings.

(a) *Litigation.* There is no litigation, investigation or enforcement proceeding pending or threatened in writing with respect to any Obligor 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 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 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, 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 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 is in compliance with all Requirements of Law (including Healthcare Laws and Environmental Laws) and all Contracts binding upon it or its Property, except (other than with respect to Material Intellectual Property) 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, except as, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect:

(i) Any financial relationships between or among the Borrower, any other Obligor, or any of their respective Subsidiaries, on the one hand, and any Person who is in a position to refer patients or other Federal Health Care Program to the Borrower, any other Obligor or any Subsidiaries (collectively a “Referral Source”), on the other hand, (A) comply with all applicable Healthcare 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 the Borrower, any other Obligor, or any of their respective Subsidiaries in any manner that could reasonably be expected to constitute a violation of a state, federal or foreign health care fraud and abuse law. No Obligor, nor any of its respective Subsidiaries, 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 in any manner that could reasonably be expected to constitute a violation of a state, federal or foreign health care fraud and abuse law.

(ii) Except as disclosed on Schedule 7.19(b) or 7.19(e), all Products have been developed, tested, manufactured, distributed, marketed and sold in compliance with all applicable FDA Laws, including, without limitation, all requirements relating to pre-market notification, good manufacturing practices/quality system regulations (21 CFR Part 820), labeling, advertising, record-keeping, and adverse event reporting.

(iii) The Borrower, each other Obligor, and each of their respective Subsidiaries are in compliance with the Physician Payments Sunshine Act (Section 6002 of the Affordable Care Act of 2010) and its implementing regulations and any applicable state disclosure and transparency laws.

(iv) To the extent any Obligor and any Subsidiary participates in or receives reimbursement from any Federal Health Care Program or other third-party payor program, each such Obligor and each such Subsidiary shall have the requisite provider number or authorization necessary to bill any third-party payor program in which it participates and there are no audits, inquiries, adjustments,

appeals or recoupment efforts by any third-party payor program of or against any Obligor or Subsidiary with respect to any prior Claims, reports or billings.

(v) Each Obligor will maintain and adhere to a commercially reasonable compliance program designed to promote compliance with and to detect, prevent and address violations of all material Healthcare Laws (a “*Health Care Compliance Program*”). No Obligor or Subsidiary thereof is aware of any complaints from any employees, independent contractors, vendors, physicians, customers, patients or other persons that would reasonably be considered to indicate a violation of Healthcare Laws.

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. The Borrower has 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 written 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), taken as whole, contains any material misstatement of material fact or 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 the Projections, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

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. Subsidiaries. Except as set forth on Schedule 7.12 (as such Schedule may be updated by Borrower from time to time), Borrower has no direct or indirect Subsidiaries. For the

avoidance of doubt, the Borrower does not have any direct or indirect Subsidiaries as of the Closing Date and the Funding Date.

Section 7.13. Indebtedness and Liens. Set forth on Schedule 7.13A is a complete and correct list of all Indebtedness of each Obligor that exceeds \$50,000 as of the Closing Date (other than Permitted Indebtedness and Indebtedness evidenced by the Existing Credit Agreements). Set forth on Schedule 7.13B is a complete and correct list of all Liens described in Section 9.02(b) granted by an Obligor with respect to its respective Property and outstanding as of the Closing Date (other than liens incurred in connection with the Existing Credit Agreements).

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. Accurate and complete copies of each such Contract listed on such schedule have been made available to the Administrative Agent. No Obligor is in default in any respect under any such Material Agreement or such Contract, in each case, other than bona fide disputes and defaults which would not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect 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 or 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 Benefit 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, in the aggregate, 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.

(a) 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.

(b) In the case of any location as to which (i) Collateral with a value in excess of \$500,000 is located or (ii) an Obligor maintains its chief executive office, the Obligors will use commercially reasonable efforts to provide the Administrative Agent with a Collateral Access Agreement from the applicable landlord, bailee or similar Person within sixty (60) days after the Funding Date or sixty (60) days after the date such Collateral is so located.

Section 7.19. Regulatory Approvals.

(a) Except as set forth on Schedule 7.19(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 conducted by such Obligor and its respective Subsidiaries 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 referred to in clause (a) above, if any, setting forth (on a per Product basis) the Obligor that holds such Regulatory Approval and identifying the Product related to such Regulatory Approval. All such Regulatory Approvals 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 Authority. All required and material notices, registrations and listings, supplemental applications or notifications, reports (including annual reports, field alerts, Device reports or other reports of adverse experiences) and all other required and material filings with respect to the Products or any related Product Development and Commercialization Activities by such Obligor have been filed with the FDA and all other applicable Governmental Authorities.

(c) (i) All material regulatory filings required by any Regulatory Authority or in respect of any Regulatory Approval or Product Authorization with respect to any Product or any Product Development and Commercialization Activities by such Obligor have been made, and all such filings are complete and correct in all material respects and have complied in all material respects with all applicable Requirements of Law, (ii) all clinical and pre-clinical trials, 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, to the extent reasonably requested by the Administrative Agent, any written 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 applicable statutes, rules and regulations (including all Regulatory Approvals and Product Authorizations) of all applicable Governmental Authorities, including the FDA and all other Regulatory Authorities, with respect to each Product and all Product Development and Commercialization Activities by such Obligor related thereto. Each Obligor has and maintains in full force and effect all the necessary and requisite Regulatory Approvals and Product Authorizations for its Products. Each Obligor is in compliance in all material respects with all applicable registration and listing requirements set forth in all applicable FDA Laws or equivalent regulation of each other Governmental Authority having jurisdiction over such Person. Each Obligor adheres in all material respects to all applicable regulations of all Regulatory Authorities with respect to the Products and all Product Development and Commercialization Activities by such Obligor related thereto.

(e) Except as set forth on Schedule 7.19(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 by such Obligor related thereto, including any FDA Form 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 no recalls, market withdrawals, field notifications, notifications of misbranding or adulteration or safety alerts have been conducted, requested or, to each Obligor's knowledge, threatened by any Regulatory Authority relating to any Product, and (iii) no Obligor has received any written notification that remains unresolved from the FDA or any other Regulatory Authority indicating any breach or violation of any applicable Product Authorization or Regulatory Approval, including that any Product is misbranded or adulterated as defined in the FD&C Act or the rules and regulations promulgated thereunder, in each case of (i), (ii) and (iii) that has had, or would reasonably be expected to have, a Material Adverse Effect.

(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 the FDA or any other Regulatory Authority, failed to disclose a material fact required to be disclosed to the FDA or any other Regulatory Authority, or committed an act, made a statement, or failed to make a statement that, at the time such disclosure was made (or was not made), would reasonably be expected to provide a basis for the FDA or any other

Regulatory Authority to invoke its policy respecting Fraud, Untrue Statements of Material Facts, Bribery and Illegal Gratuities, set forth in 56 Fed. Reg. 46191 (September 10, 1991) or any similar policy.

(g) No Obligor has received any written notice that the FDA or any other 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 Product Authorization 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 Product Authorizations. Each Obligor has operated within, and currently is in compliance in all material respects with, all applicable Laws, Product Authorizations and Regulatory Approvals, as well as the rules and regulations of the FDA and each other Regulatory Authority. No Obligor has received any notices or other correspondence from the FDA or any other Regulatory Authority requiring the termination or suspension of any clinical, preclinical, safety or other studies or tests used to support regulatory clearance of, or any Product Authorization or Regulatory Approval for, any Product.

(i) No material debarment or exclusionary Claims, actions, proceedings or investigations in respect of any Obligor's business is pending, or to such Obligor's knowledge, threatened in writing against such Obligor or its officers, employees or agents. No Obligor or, to such Obligor's knowledge, any officer, employee or agent of such Obligor, has been convicted of any crime or engaged in any conduct that would reasonably be expected to result in a debarment or exclusion pursuant to (i) Section 335a of the FD&C Act or (ii) any similar applicable Law.

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 Funding Date and except as set forth on Schedule 7.20, there are no outstanding or authorized options, warrants (other than the Warrant Certificate), purchase rights, subscription rights, conversion rights, exchange rights, or other Contracts or commitments that would 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. None of the Equity Interests in any Obligor has 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. Economic 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 Economic Sanctions Laws.

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 (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 royalty, milestone payment, deferred payment or any other contingent payment in respect of any Product, in an amount in excess of \$1,500,000 in the aggregate.

ARTICLE 8 AFFIRMATIVE COVENANTS AND FINANCIAL COVENANTS

Each Obligor covenants and agrees with the Lenders that, commencing with the Funding Date and until the Commitments have expired or been terminated and all Obligations (other than the Warrant Obligations and contingent and unmatured indemnity and expense reimbursement obligations) have been paid in full in cash:

Section 8.01. Financial Statements and Other Information. It will furnish to the Administrative Agent for distribution to the Lenders:

(a) (i) as soon as available and in any event within five (5) Business Days following the date the Borrower is required to file its Form 10-Q with the SEC (commencing with the fiscal quarter ending March 31, 2023) (other than each fiscal quarter ended December 31st), 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, all in reasonable detail together with (A) 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 (B) a management's discussion and analysis of the financial condition and results of operations, including the Borrower and its Subsidiaries' liquidity and capital resources; *provided* that documents required to be furnished pursuant to this Section 8.01(a)(i) shall be deemed furnished on the date that such documents are publicly available on "EDGAR" so long as such filings include quarterly income statements, balance sheets and cash flow statements and (ii) as soon as available and in any event within forty-five (45) days after the end of each fiscal quarter ending December 31st, the unaudited 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, setting forth in comparative form the corresponding figures for the fiscal quarter ending December 31st of the previous fiscal year, all in reasonable detail and 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;

(b) as soon as available and in any event within five (5) Business Days following the date Borrower is required to file its Form 10-K with the SEC (commencing with the fiscal year ending December 31, 2022), 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, prepared substantially in accordance with GAAP consistently applied, all in reasonable detail accompanied by (i) a report and opinion thereon of KPMG LLP 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, commencing with the fiscal year ending December 31, 2023, shall not be subject to any "going concern" or like qualification or exception audit (other than (A) with respect to, or resulting solely from the upcoming Stated Maturity Date occurring within one year from the time such report is delivered or (B) with respect to the extent the components of such consolidated financial statements relating to a prior fiscal period are separately audited by different independent public accounting firms, the audit report of any such accounting firm may contain a qualification or exception as to scope of such consolidated financial statements as they relate to such components) or any qualification or exception as to the scope of such audit or related to the maturity of the Term Loans 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 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) concurrently with the notification that the reports described in Section 8.01(a) and 8.01(b) are available, a compliance certificate of a Responsible Officer of the Borrower as of the end of the applicable accounting period (which delivery may, unless a Lender requests executed originals, 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*") which, for purposes of clarification, shall (i) confirm the Obligor's compliance with Section 8.11 and Section 8.15, (ii) state the representations and warranties made by the Obligor in Article 7 are true and correct 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 (and if a representation and warranty is untrue or incorrect, state the proposed actions that the Obligor intend to take in connection with such untrue or incorrect representation and warranty), (iii) 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 Obligor intend to take in connection with such Default or Event of Default), (iv) for Compliance Certificates delivered at the end of any fiscal year, attach updated Schedules (if any) to this Agreement and (v) provide a copy of any new Material Agreement; *provided* that the Borrower's filing of any such material with the SEC shall be deemed to satisfy the requirements of this Section 8.01(c)(v) on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto; *provided further*, notwithstanding the foregoing, Compliance Certificates delivered in connection with Section 8.01(a)(ii) shall only be required to confirm the Obligor's compliance with Section 8.11 and Section 8.15;

(d) 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 regarding financial or other operational results of such Obligor;

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

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

(g) within ten (10) days of delivery, copies of all 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(g) on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto;

(h) 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 February 28 of such fiscal year;

(i) 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; and

(j) so long as the Borrower is a Publicly Reporting Company, the Borrower shall within five (5) Business Days of the Borrower filing, provide access (via posting and/or links on the Borrower's web site) to all reports on Form 10-K and Form 10-Q 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 five (5) Business Days of filing, provide notice and access (via posting and/or links on the Borrower's web site) to all reports on Form 8-K filed with the SEC, and copies of (or access to, via posting and/or links on the Borrower's web site) 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.

Notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary shall be required to deliver, disclose, permit the inspection, examination or making of copies of or excerpts from, or any discussion of, any document, information, or other matter (i) in respect of which disclosure to the Administrative Agent (or any Lender (or their respective representatives or contractors)) is prohibited by applicable law, (ii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iii) with respect to which any Loan Party owes confidentiality obligations (to the extent not created in contemplation of such Loan Party's Obligations under this Section 8.01) to any third party.

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 Borrower and its Subsidiaries first learns of the existence of:

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

(b) within three (3) Business Days after the occurrence of any Casualty Event with respect to any Obligor's Property resulting in a Loss, to the extent not covered by insurance, aggregating \$250,000 or more;

(c) (i) prior to the execution of a definitive agreement for any proposed Acquisition by any Obligor that would reasonably be expected to result in environmental liability under Environmental Laws in excess of \$250,000, 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) 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 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 three (3) Business Days of obtaining written notice or knowledge thereof, 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, in each case, which would reasonably be expected to (either individually or in the aggregate) have a Material Adverse Effect;

(e) within three (3) Business Days of obtaining notice to an Obligor 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) (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 ten (10) Business Days of obtaining written notice or knowledge thereof, (i) the termination of any Material Agreement (other than in the Ordinary Course of Business); (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, solely to the extent such Material Agreement is not made publicly available on "EDGAR"); 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 next Compliance Certificate unless any of the foregoing events would reasonably be expected to have a Material Adverse Effect;

(h) within three (3) 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 material 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 that would reasonably be expected to have a Material Adverse Effect;

(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) the distribution of reports and notices as and when required by the Security Documents;

(m) within thirty (30) 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 of the occurrence thereof, notice of any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other labor disruption against or involving an Obligor (or any Subsidiary thereof) that would reasonably be expected to have a Material Adverse Effect;

(o) within five (5) Business Days of any other failure to pay or any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect;

(p) within five (5) Business Days of the acceleration of the maturity of any Material Indebtedness owed by any Obligor or of any default by Obligors under any

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 of the failure to pay 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; and

(s) five (5) Business Days prior to any change to any Obligor's ownership of Deposit Accounts, Securities Accounts and Commodity 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.

The specified time periods in this Section 8.02 shall begin accruing after a Responsible Officer of an Obligor first learns of the existence of a circumstance requiring notice.

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(c) and 8.02(a).

Notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary shall be required to deliver, disclose, permit the inspection, examination or making of copies of or excerpts from, or any discussion of, any document, information, or other matter (i) in respect of which disclosure to the Administrative Agent (or any Lender (or their respective representatives or contractors)) is prohibited by applicable law, (ii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iii) with respect to which any Loan Party owes

confidentiality obligations (to the extent not created in contemplation of such Loan Party's Obligations under this Section 8.02) to any third party.

Section 8.03. Existence; Maintenance of Properties.

(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) Each Obligor 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, except for ordinary wear and tear and damage from casualty or condemnation and, with respect to Intellectual Property, abandonment, lapse or other disposition of Intellectual Property in the Ordinary Course of Business that is, in the reasonable good faith judgment of such Obligor, immaterial to the business of such Obligor, no longer economically practicable or commercially desirable to maintain or used or useful in the business of such Obligor, or the expiration of such Intellectual Property is in accordance with its statutory term (provided that such term is not renewable), except to the extent the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

(c) Each Obligor shall use commercially reasonable efforts to cause each new employee and each contractor with access to Material Intellectual Property to execute and deliver a customary confidentiality, non-disclosure and Intellectual Property assignment agreement that includes a waiver or moral rights to the extent permitted by Law and such agreements are customary in the applicable jurisdiction.

(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 Obligor 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 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 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 two (2) such inspections each calendar year and (b) during a continuing Default, all such inspections.

During the course any inspections, audits and other visits and discussions permitted under this Section 8.06 or elsewhere under the Loan Documents, representatives of the Administrative Agent (or any Lender (or their respective representatives or contractors)) may encounter individually identifiable healthcare information as defined under HIPAA, or other confidential information relating to healthcare patients (collectively, the “*Confidential Healthcare Information*”). Unless otherwise required by any applicable laws, the Administrative Agent, the Lenders and their representatives shall not require or perform any act that would cause the

Borrower or any other Person to violate any Healthcare Laws, including HIPAA, including, without limitation, as a result of the disclosure of any Confidential Healthcare Information. In the event that the Administrative Agent (or any Lender (or their respective representatives or contractors)) proposes to undertake activities that the Borrower reasonably believes would constitute services of a “business associate” under HIPAA, including the disclosure of any protected Confidential Healthcare Information, the parties hereto agree to review the matter and, where appropriate, the Administrative Agent (or applicable Lender (or such respective representatives or contractors)) may take action to comply with HIPAA, and shall, upon the Borrower’s reasonable request and at the Borrower’s expense, execute a business associate agreement with the applicable Person.

Notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary shall be required to deliver, disclose, permit the inspection, examination or making of copies of or excerpts from, or any discussion of, any document, information, or other matter (i) in respect of which disclosure to the Administrative Agent (or any Lender (or their respective representatives or contractors)) is prohibited by applicable law, (ii) that is subject to attorney-client or similar privilege or constitutes attorney work product or (iii) with respect to which any Loan Party owes confidentiality obligations (to the extent not created in contemplation of such Loan Party’s Obligations under this Section 8.06) to any third party.

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 Healthcare Laws and Environmental Laws) and (ii) comply in all material respects with all terms of outstanding Indebtedness and all Material Agreements, except (other than with respect to Material Intellectual Property) 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 Healthcare 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. It will, and will cause each of its Subsidiaries to, upon a Responsible Officer becoming aware of the release of any Hazardous Materials in violation of any applicable Environmental Laws 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, except where failure to do so would not reasonably be expected to have a Material Adverse Effect; *provided, however*, that neither an Obligor nor any Subsidiary shall be required to undertake any such investigation, clean up, removal, containment, remediation or other corrective action required by Environmental Laws to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

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.* It 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) to the extent that the parent of such Subsidiary is not a party to the Security Documents or has not otherwise pledged Equity Interests in its Subsidiaries in accordance with the terms of the Security Documents and this Agreement, cause the parent of such Subsidiary to execute and deliver a pledge

agreement in favor of the Lenders, 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 Majority Lenders shall have requested.

(b) *Further Assurances.* 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 Majority Lenders 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 Majority Lenders to create, in favor of the Lenders, 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 request of the Administrative Agent, such Obligor shall take any action as shall be reasonably necessary and reasonably requested 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 best efforts to promptly terminate or cause the termination of such Lien.

Section 8.13. Non-Consolidation. The Borrower will cause each of its Subsidiaries (other than an Obligor) to, (a) maintain entity records and books of account separate from those of any other entity which is an Affiliate of such entity and (b) not commingle its funds or assets with those of any other entity which is an Affiliate of such entity.

Section 8.14. Anti-Terrorism and Anti-Corruption Laws . No Obligor shall engage in any transaction that violates any of the applicable prohibitions set forth in any Economic Sanctions Law, Anti-Terrorism Law, or any Anti-Corruption Law. 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 such Obligor insofar as such interest would violate any Economic Sanctions Laws applicable to such Obligor.

Section 8.15. Financial Covenants.

(a) *Minimum Liquidity.* The Borrower shall ensure that the Obligors shall have aggregate Unrestricted Cash of not less than \$2,500,000 at all times.

(b) *Minimum Net Revenue.* As of the end of the fiscal quarter ended March 31, 2023, and each fiscal quarter thereafter, the Obligors shall maintain, on a consolidated basis, Net Revenue as agreed to in writing between the Borrower and the Administrative Agent from time to time.

Section 8.16. Maintenance of Regulatory Approvals, Contracts and Intellectual Property. Each Obligor will, and will cause each of its Subsidiaries (to the extent applicable) to:

(a) maintain in full force and effect all CLIA laboratory certifications or accreditations, Regulatory Approvals (including the Product Authorizations), Material Agreements, or other rights necessary for the current operations of such Obligor's or such Subsidiary's business, as the case may be, except where failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;

(b) maintain in full force and effect all Material Intellectual Property that is used in and necessary for current operations; and

(c) use commercially reasonable efforts to pursue and maintain in full force and effect legal protection for all new, Material Intellectual Property that is used in and necessary in connection with any Product Development and Commercialization Activities by such Obligor 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) subject to Section 8.18, 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 greater than \$75,000 in the aggregate at any time made in respect of any and all accounts and other rights and interests into Controlled Accounts; and

(c) 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 funds received from third-party payer payments pertaining to clinical diagnostic testing claims including those received from Federal Health Care Programs. Subject to Section 8.18, the Obligors shall 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, but shall permit such depository bank to maintain its existing and future rights of recoupment and set-off and banker's lien against any Controlled Account.

Section 8.18. Post-Funding Obligations. The Obligors 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, commencing on the Funding Date and until the Commitments have expired or been terminated and all Obligations (other than the Warrant Obligations and contingent and unmatured indemnity and expense reimbursement obligations) 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 7.13A;
- (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 reasonable discretion;

(f) Guarantees by any Obligor of Indebtedness of any other Obligor;

(g) purchase money Indebtedness and Capital Lease Obligations; *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 \$1,500,000 at any time;

(h) unsecured (other than any non-consensual Liens) workers' compensation Claims, payment obligations in connection with health, disability or other types of social security or other employee related benefits, unemployment or other insurance obligations (including premiums related thereto), reclamation and statutory obligations, in each case incurred in the Ordinary Course of Business;

(i) unfunded pension fund and other employee benefit plan obligations and liabilities incurred in the Ordinary Course of Business;

(j) Indebtedness under Hedging Agreements permitted pursuant to Section 9.05(f);

(k) Indebtedness approved in advance in writing by the Majority Lenders;

(l) Indebtedness of the Borrower and its Subsidiaries with respect to overdrafts or corporate credit cards not to exceed \$250,000 at any time outstanding;

(m) the Milestone Payments together with any interest accruing with respect thereto;

(n) so long as no Default shall have occurred and is continuing at the time of such Indebtedness is incurred, or after giving effect thereto, other unsecured Indebtedness in an aggregate principal amount not to exceed \$1,000,000 at any time outstanding;

(o) Indebtedness of Borrower and/or any Subsidiary (i) pursuant to tenders, statutory obligations (including health, safety and environmental obligations), bids, leases, governmental contracts, trade contracts, surety, indemnity, stay, customs, judgment, appeal, performance, completion and/or return of money bonds or guaranties, contract manufacturer obligations or other similar obligations incurred in the Ordinary Course of Business, and (ii) in respect of letters of credit, bank guaranties, surety bonds, performance bonds or similar instruments to support any of the foregoing items in the Ordinary Course of Business;

(p) Indebtedness in respect of any agreement providing for treasury, depository or cash management services, including in connection with any automated clearing house transfers of funds or any similar transfers, netting services, overdraft protections and other cash management and similar arrangements, in each case, in the Ordinary Course of Business;

(q) customer deposits and advance payments received in the Ordinary Course of Business from customers for goods and services purchased in the Ordinary Course of Business;

(r) Indebtedness consisting of the deferred obligations to pay insurance premiums in respect of insurance policies pursuant to Section 8.05 insuring assets or businesses of an Obligor written or arranged in such Obligor's Ordinary Course of Business and which are payable within one (1) year;

(s) Indebtedness incurred in connection with letters of credit that are secured solely by cash or Permitted Cash Equivalent Investments and issued on behalf of the Borrower in the Ordinary Course of Business in an aggregate amount outstanding not to exceed \$1,000,000 at any time;

(t) Indebtedness constituting of deposits or prepayments received from customers in the Ordinary Course of Business; and

(u) Permitted Refinancings of any of the foregoing clauses (b) through (t).

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 7.13B; *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, grant applications, Contracts, leases, surety, performance and appeal bonds, workers' compensation, unemployment insurance or other similar social security or employment Laws;

(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 materially interfere with the ordinary conduct of the business of any of the Obligors;

(h) bankers' Liens, rights of setoff and similar Liens incurred on deposits in the Ordinary Course of Business or otherwise arising in connection with the Obligors' Deposit Accounts or Securities Accounts or credit card programs held at financial institutions to secure payment of fees and similar costs and expenses of such financial institutions with respect to such accounts or programs;

(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 Permitted Cash Equivalent Investments therein, in each case, securing Indebtedness described in Section 9.01(l);

(n) Liens on cash collateral securing reimbursement obligations in respect of Indebtedness permitted under Section 9.01(s);

(o) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(p) other Liens securing other obligations to the extent permitted hereby not to exceed \$500,000 in an aggregate principal amount at any time outstanding; and

(q) Permitted Licenses;

provided that no Lien otherwise permitted under any of the foregoing Sections 9.02 (excluding Sections 9.02(a), 9.02(b) and 9.02(q)) shall apply to any Material 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 \$2,000,000 and (ii) total consideration not to exceed \$5,000,000, in each case, for the duration of this Agreement;

(iii) 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;

(iv) the sale, transfer or other disposition by any Obligor of any or all of its property to any other Obligor; and

(v) sales and other transfers 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 Obligor, or a business reasonably related, 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, Securities Accounts or Commodity Accounts with banks or other financial institutions;
- (c) extensions of credit in the nature of accounts receivable, notes receivable of, or prepaid royalties and other credit extensions to, customers and suppliers in the Ordinary Course of Business;
- (d) cash and Permitted Cash Equivalent Investments;
- (e) (i) Investments consisting of 100% of the ownership of the Equity Interests of its Subsidiaries, (ii) intercompany Investments by Borrower or a Subsidiary in any Guarantor or (iii) Investments by Borrower or any Subsidiary acquired in connection with a Permitted Acquisition;
- (f) Hedging Agreements (i) 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) and in an aggregate net exposure amount for all such Hedging Agreements not in excess of \$500,000 or (ii) entered into to hedge interest rate risks in respect of the Obligations hereunder;
- (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 \$100,000 for subclauses (i) and (ii) in any fiscal year;

(l) 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, Investments not to exceed \$1,000,000 at any time outstanding in joint ventures and counterparties to collaboration and license agreements; and

(m) 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 units or 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) Dividends paid by any Obligor to any other Obligor;

(e) cashless exercises of options and warrants;

(f) 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 \$100,000 in any fiscal year;

(g) 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 \$25,000 in any fiscal year; and

(h) the issuance of the Warrant Certificate and cash payments made to redeem, purchase, repurchase or retire the Warrant Obligations in accordance with the terms of the Warrant Certificate.

Section 9.07. Payments of Indebtedness and Milestone Payments. (a) It will not, and will not permit any of its Subsidiaries to, make any payments in respect of any Material Indebtedness (other than the Milestone Payments) except (i) payments of the Obligations and (ii) so long as no Default has occurred and is continuing or would result therefrom, scheduled payments of 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).

(b) It will not, and will not permit any of its Subsidiaries to, make any Milestone Payments except (i) prior to December 31, 2023, so long as no Default has occurred and is continuing or would result therefrom, scheduled Milestone Payments and accrued interest payable with respect thereto and (ii) commencing January 1, 2024 and thereafter, so long as (A) no Default has occurred and is continuing or would result therefrom and (B) consented to by the Administrative Agent, scheduled Milestone Payments and accrued interest payable with respect thereto.

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. 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), or forgive, release or compromise any amount owed to an Obligor or any of its Subsidiaries, in each case, in one transaction or series of transactions (any thereof, an "Asset Sale"), except:

- (a) transfers of cash or Permitted Cash Equivalent Investments in the Ordinary Course of Business in a manner not prohibited by the terms of this Agreement;
- (b) sales or leases of inventory, products or 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) entering into, or becoming bound, by a Permitted License to the extent not otherwise prohibited by this Agreement;
- (e) 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 or any of its Subsidiaries in the Ordinary Course of Business and consistent with general market practices; *provided* that 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;

(f) 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, and with respect to Intellectual Property, the conveyance, sale, lease, license, abandonment, lapse or other disposition in the Ordinary Course of Business that is, in the reasonable good faith judgment of such Obligor, immaterial to the business of such Obligor, no longer economically practicable or commercially desirable to maintain or used or useful in the business of such Obligor, or the expiration of such Intellectual Property is in accordance with its statutory term (provided that such term is not renewable);

(g) dispositions resulting from Casualty Events;

(h) any transaction permitted under Section 9.02, 9.03, 9.05, 9.06, 9.15 and 9.20;

(i) 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;

(j) transfers to customers of Equipment located at a customer's site for research and collaboration;

(k) the sale or issuance of any Equity Interests of the Borrower permitted under this Agreement;

(l) transfers of assets or property by any Obligor to any other Obligor;

(m) transfers of non-exclusive licenses or sublicenses of Intellectual Property or software (including the rights to royalty payments and the provision of software under an open source license) in the Ordinary Course of Business;

(n) abandonments, cancellations or lapses of Intellectual Property rights or issuances or registrations, or applications for issuances or registrations, of Intellectual Property rights in the Ordinary Course of Business, which, in the good faith determination of Borrower, are not material to the conduct of the business of Borrower or its Subsidiaries;

(o) the leasing or subleasing of real property in the Ordinary Course of Business;

(p) transfers and/or terminations of, or constituting, leases, subleases, licenses, sublicenses or cross-licenses (including the provision of software under any open source license and any related transfer of improvements made to leased real property resulting therefrom), the transfers or terminations of which (i) do not materially interfere with the business of the Borrower and its Subsidiaries or (ii) relate to closed facilities or

the discontinuation of any product line, and in each case are made in the Ordinary Course of Business;

(q) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort) in the Ordinary Course of Business;

(r) non-exclusive licenses for the use of the Borrower's or any Subsidiary's Intellectual Property entered into in the Ordinary Course of Business;

(s) exclusive licenses for the use of non-material and non-core Intellectual Property owned or co-owned by the Borrower or any Subsidiary, which in the good faith business judgment of the Borrower is expected to remain non-material and non-core to the Borrower in perpetuity, entered into in the Ordinary Course of Business; *provided* that (i) the Borrower must deliver ten (10) days' prior written notice and a brief summary of the terms of the proposed license to the Administrative Agent and deliver to the Administrative Agent copies of the final executed licensing documents in connection with the exclusive license promptly upon consummation thereof, and (ii) any such license could not result in a legal transfer of title of the licensed property but may be exclusive in respects other than territory and may be exclusive as to territory only as to discrete geographical areas outside of the United States; and

(t) transfers or sales of licenses or Intellectual Property and other related assets or rights to a third party, or solely to the extent formed in connection with such transaction, a wholly owned Subsidiary of the Borrower, so long as such Subsidiary is thereafter sold, merged with or acquired by such third party within thirty (30) days of formation; *provided*, (i) the aggregate amount of all such transfers, sales or licenses during the term of this Agreement shall not exceed \$2,500,000 (or such greater amount that may be consented to by the Administrative Agent) and (ii) any royalty payments or other such payments owing to the Borrower pursuant to such sale shall be Collateral in which the Administrative Agent for the benefit of the Lenders has been granted a security interest under the Security Documents.

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, 9.03, 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) any other transaction is (i) on fair, reasonable and arm's-length terms that are no less favorable (including with respect to the amount of cash or other consideration receivable or payable in connection therewith) to such Obligor or any such Subsidiary than it could obtain in a transaction with a Person that is not an Affiliate of such Obligor or any such Subsidiary, as applicable, and (ii) of the kind which would be entered into by a prudent Person in the position of such Obligor or any such Subsidiary with another Person that is not an Affiliate of such Obligor or any such Subsidiary, as applicable;

(e) 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; and

(f) the transactions set forth on Schedule 9.10.

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, (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, (d) limitations associated with Permitted Liens or with any transaction permitted under Section 9.01, 9.03, 9.05, 9.06 or 9.09, (e) restrictions on cash (or Permitted Cash Equivalent Investments) or other deposits imposed by agreements entered into with customers in the Ordinary Course of Business (or other restrictions on cash or deposits constituting Permitted Liens), (f) customary provisions in leases and other agreements restricting the assignment thereof, (g) any restrictions and conditions imposed by any agreement relating to Indebtedness of any Subsidiary in existence at the time such Subsidiary became a Subsidiary (and any extension, renewal, amendment, modification or replacement thereof, except to the extent any such amendment, modification or replacement materially expands the scope of any such restriction or condition), (h) in the case of any Subsidiary that is not a wholly-owned Subsidiary, restrictions and conditions imposed by its organizational documents or any related joint venture or similar agreements; *provided* that such restrictions and conditions apply only to such Subsidiary and to the Equity Interests of such Subsidiary, (i) restrictions and conditions imposed by any agreement relating to secured Indebtedness permitted by Section 9.01(g) if such restrictions and conditions apply only to the assets securing such Indebtedness and (j) customary restrictions and conditions (and any extension, renewal, amendment, modification or replacement thereof, except to the extent any such amendment, modification or replacement expands the scope of any such restriction or condition) contained in agreements relating to the sale of a Subsidiary or any assets of the Borrower or any Subsidiary, in each case pending such sale; *provided* that such restrictions and conditions apply only to such Subsidiary or the assets that are to be sold, in each case, such sale is permitted hereunder.

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 materially and 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 Material Intellectual Property that would be reasonably expected to have a Material Adverse Effect, without, in each case, the prior written consent of the Administrative Agent. For the avoidance of doubt, with respect to the Indi Purchase Agreement, (A) increasing interest rates payable by the Obligor, (B) increasing or adding fees or charges payable by the Obligor and (C) changing (to earlier dates) any dates upon which payments by the Obligor are due shall be deemed to adversely affect the Lenders in a material respect.

Section 9.13. [Reserved].

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, without the consent of the Lenders, such consent not to be unreasonably withheld or delayed.

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. It will not, and will not permit any of its Subsidiaries to, establish or maintain any bank 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 a bank account that is not a Controlled 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) such Obligor has 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) 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 and to allow 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 \$2,000,000 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 at the due date thereof; 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 in writing 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(a)-(d), 8.02(a), 8.02(b), 8.03(a) (with respect to such Obligor's existence), 8.10, 8.11, 8.15, 8.18 or Article 9; or

(e) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in Section 8.01 (other than in clauses (a)-(d) and 8.02 (other than in clauses (a) and (b)), and in the case of any failure that is capable of cure, such failure shall continue unremedied for a period of five (5) or more days; or

(f) 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), (d) or (e)) 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, after actual knowledge by a Responsible Office or receipt of notice from the Administrative Agent; or

(g) any Obligor shall fail to make any payment (whether of principal or interest and 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

(h) (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 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(h) 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

(i) 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(j), (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

(j) 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

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$500,000 (excluding any amounts covered by insurance as to which the applicable carrier has not denied coverage) shall be rendered against any Obligor or any combination thereof and the same shall remain undischarged for a period of forty-five (45) 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

(l) an ERISA Event shall have occurred that, in the reasonable 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

(m) a Change of Control shall have occurred; or

(n) [reserved]; or

(o) a Material Adverse Change shall have occurred; or

(p) (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 \$250,000, 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) except for expiration in accordance with its terms and except due to the action or inaction of the Administrative Agent or any Lender(s), any material provision of 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 repudiated or contested by any Obligor; or

(q) 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

(r) (i) the FDA or any other Governmental Authority (A) issues a letter or other communication asserting that any Product lacks a required Product Authorization (other than the revocation of any emergency use authorization issued pursuant to Section 564 of the FD&C Act), including in respect of CE marks or 510(k)s or (B) initiates enforcement action against, or issues a warning letter with respect to, any Obligor, or any of their Products or the manufacturing facilities therefor, that causes any Obligor thereof to discontinue marketing or withdraw any of its Products, or causes a delay in the manufacture of any of its Products, which discontinuance, withdrawal or delay would reasonably be expected to last for more than ninety (90) days, (ii) any material Permit (including all Product Authorizations or clinical laboratory Permits), or any of the Obligors' material rights or interests thereunder, is terminated, adversely amended or otherwise determined to be ineffective in any manner materially adverse to any of the Obligors, in each case, for more than ninety (90) days, (iii) there is a recall of any Product in any territory in the case of (i) or (ii) that would reasonably be expected to result in a loss of revenue equal to at least \$3,000,000 over the twelve (12) month period following such event or (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 (except to the extent covered by insurance as to which the insurer does not dispute coverage) for any violation or alleged violation of any Healthcare Law.

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(i) or (j)), 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(i) or (j), 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(b).

Section 10.03. Prepayment Premium and Redemption Price. For the avoidance of doubt, if 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 for any reason, 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 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)(3) 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, other than the defense of the payment in full of the Obligations, 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, condition (financial or otherwise), 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 and documented out-of-pocket 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 contingent and unmatured indemnity and expense reimbursement obligations) and the expiration and termination of the Commitments and the repayment, satisfaction or discharge of all Obligations under any Loan Document, 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 indefeasible 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. Appointments 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 (other than as set forth in Section 12.06) 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 Obligor or any other Subsidiaries or Affiliates of the Obligor 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 Obligor 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 the Borrower, 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 the Borrower) 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, sequestrator 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 Warrant Obligations and contingent obligations as to which no Claims have been asserted), (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), (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 written 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.

Section 13.03. Expenses and Indemnification.

(a) *Expenses.* The Borrower 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 Chapman and Cutler LLP, counsel to the Administrative Agent) 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-funding costs); *provided that*, so long as the Borrowing of the Tranche A Loan is made, such fees shall be credited against the Expense Deposit paid by the Borrower, (B) post-funding 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 and documented out of pocket fees and expenses of legal counsel) in connection with any enforcement or collection proceedings resulting from the occurrence and continuance of an Event of Default.

(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 Claims and Losses of any kind (including reasonable and documented out of pocket fees and disbursements of counsel), 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 (x) is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from any Indemnified Party's gross negligence, willful misconduct, (y) results from a Claim brought by an Obligor against an Indemnified Party for breach of such Indemnified Party's

obligations hereunder or under any other Loan Document, if such Obligor has obtained a final and non-appealable judgment in its favor on such Claim as determined by a court of competent jurisdiction or (z) results from a Claim not involving an act or omission of an Obligor and that is brought by an Indemnified Party against another Indemnified Party (other than against the Administrative Agent in its capacity as such). 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. 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 the Borrower, 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 and the Borrower, 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);
 - (iv) amend any provision of this Section 13.04; or
 - (v) amend the terms of the Fee Letter.
- (b) no amendment, waiver or consent shall, unless in writing and signed by the Borrower and 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 Section 4.01(b) 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 (with a copy to the Borrower, *provided* that the failure to give such copy to the Borrower shall not affect the validity of such Assignment Agreement) 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 (a) 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.* Subject to Section 13.05(d), 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 the Borrower 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.* 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 Obligors, their stockholders or equity holders and/or their Affiliates (collectively, solely for purposes of this paragraph, the “Obligors”). The Obligors acknowledge 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 Obligors that pursuant to the requirements of the Patriot Act and 31 C.F.R. § 1010.230 (the “Beneficial Ownership Regulation”), they are required to obtain, verify and record information that identifies the Obligors, 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 Patriot 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 Borrower or any Guarantor and its obligation, (g) with the consent of 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 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 contingent and unmatured indemnity and expense reimbursement obligations) 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:

BIODESIX, INC.

By: /s/ Robin Harper Cowie

Name: Robin Harper Cowie

Title: Chief Financial Office, Secretary and Treasurer

[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**

TRANCHE A LOAN COMMITMENTS

| LENDER | | TRANCHE LOAN A COMMITMENT |
|-----------------------------------|-------|---------------------------|
| Perceptive Credit Holdings IV, LP | | \$30,000,000 |
| | TOTAL | \$30,000,000 |

TRANCHE B LOAN COMMITMENTS

| LENDER | | TRANCHE LOAN B COMMITMENT |
|-----------------------------------|-------|---------------------------|
| Perceptive Credit Holdings IV, LP | | \$10,000,000 |
| | TOTAL | \$10,000,000 |

TRANCHE C LOAN COMMITMENTS

| LENDER | | TRANCHE LOAN C COMMITMENT |
|-----------------------------------|-------|---------------------------|
| Perceptive Credit Holdings IV, LP | | \$10,000,000 |
| | TOTAL | \$10,000,000 |

INITIAL WARRANT SHARES

| LENDER | | NUMBER OF WARRANT SHARES |
|-----------------------------------|-------|--------------------------|
| Perceptive Credit Holdings IV, LP | | 3,000,000 |
| | TOTAL | 3,000,000 |

SECOND TRANCHE WARRANT SHARES*

| LENDER | | NUMBER OF WARRANT SHARES |
|-----------------------------------|-------|--------------------------|
| Perceptive Credit Holdings IV, LP | | 1,000,000 |
| | TOTAL | 1,000,000 |

THIRD TRANCHE WARRANT SHARES**

LENDER

NUMBER OF WARRANT SHARES

Perceptive Credit Holdings IV, LP

1,000,000

TOTAL

1,000,000

* Issued on the Tranche B Loan Borrowing Date, if it occurs

** Issued on the Tranche C Loan Borrowing Date, if it occurs

Notice Addresses

If to Borrower:

Biodesix, Inc.
Attn: Scott Hutton; Robin Cowie; Ryan Siurek
2970 Wilderness Place, Suite 100
Boulder, Colorado 80301
Email:

With a copy to (which copy shall not constitute notice):

Sidley Austin LLP
Attn: Robert J. Lewis
One South Dearborn St
Chicago, IL 60603

If to Administrative Agent:

Perceptive Credit Holdings IV, LP
c/o Perceptive Advisors LLC
51 Astor Place,
10th Floor
New York, NY 10003
Attn: Sandeep Dixit
Email:

With a copy to (which copy shall not constitute notice):

Chapman and Cutler LLP
1270 Avenue of the Americas
30th Floor
New York, New York 10020-1708
Attention:

Schedule 3

Products

The following Products are listed with the FDA:

1. BLOOD SPECIMEN COLLECTION CONVENIENCE KIT (EXCLUDES HIV) (Registered Establishment Number 3011854503 (Proprietary Names: cPass Neutralizing Ab and Platelia Total Ab Collection Kit; IQLung Collection Kit; Nodify Lung Collection Kit)
2. COVID-19 TEST HOME COLLECTION KIT DEVICES (Registered Establishment Number 3011854503) (Proprietary Name: Bio-Rad SARS-CoV-2 ddPCR Collection Kit)

Biodesix, Inc. also provides the following tests as a service to customers. They are not Devices (and therefore not Products); they are instead Laboratory Developed Tests (LDTs) provided under its Clinical Laboratory Improvements Act of 1988 certificates of approval:

1. VeriStrat Test
2. GeneStrat Test
3. GeneStrat NGS Test
4. Nodify XL2 Test
5. Nodify CDT Test

FDA has historically exercised enforcement discretion with respect to most LDTs and has not required laboratories that furnish LDTs to comply with the agency's requirements for medical devices (e.g., establishment registration, device listing, quality systems regulations, premarket clearance or premarket approval, and post-market controls). FDA's authority to regulate LDTs has been contested for many years.

Schedule 7.05(b)
Obligor Intellectual Property

Copyrights: None.

Copyright Applications: None.

U.S. Patents:

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|--|
| <u>1.</u> | Biodesix, Inc. | 11/396,328 | 3/31/2006 | 7,736,905 | 6/15/2010 | Issued / Granted | Yes |
| <u>2.</u> | Biodesix, Inc. | 12/321,394 | 1/20/2009 | 7,858,390 | 12/28/2010 | Issued / Granted | Yes |
| <u>3.</u> | Biodesix, Inc. | 12/321,393 | 1/20/2009 | 7,867,775 | 1/11/2011 | Issued / Granted | Yes |
| <u>4.</u> | Biodesix, Inc. | 12/321,392 | 1/20/2009 | 7,858,389 | 12/28/2010 | Issued / Granted | Yes |
| <u>5.</u> | Biodesix, Inc. | 12/661,129 | 3/10/2010 | 7,879,620 | 2/1/2011 | Issued / Granted | Yes |
| <u>6.</u> | Biodesix, Inc. | 12/661,124 | 3/10/2010 | 8,097,469 | 1/17/2012 | Issued / Granted | Yes |
| <u>7.</u> | Biodesix, Inc. | 12/806,137 | 8/6/2010 | 9,824,182 | 11/21/2017 | Issued / Granted | Yes |
| <u>8.</u> | Biodesix, Inc. | 13/373,336 | 11/11/2011 | 9,152,758 | 10/6/2015 | Issued / Granted | Yes |
| <u>9.</u> | Biodesix, Inc. | 12/218,519 | 7/15/2008 | 8,024,282 | 9/20/2011 | Issued / Granted | No |
| <u>10.</u> | Biodesix, Inc. | 12/584,594 | 9/8/2009 | 7,906,342 | 3/15/2011 | Issued / Granted | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|--|
| <u>11.</u> | Biodesix, Inc. | 12/931,324 | 1/27/2011 | 8,119,418 | 2/21/2012 | Issued / Granted | No |
| <u>12.</u> | Biodesix, Inc. | 12/931,322 | 1/27/2011 | 8,119,417 | 2/21/2012 | Issued / Granted | No |
| <u>13.</u> | Biodesix, Inc. | 13/313,791 | 12/7/2011 | 8,586,379 | 11/19/2013 | Issued / Granted | No |
| <u>14.</u> | Biodesix, Inc. | 13/313,838 | 12/7/2011 | 8,586,380 | 11/19/2013 | Issued / Granted | No |
| <u>15.</u> | Biodesix, Inc. | 13/356,730 | 1/24/2012 | 8,914,238 | 12/16/2014 | Issued / Granted | No |
| <u>16.</u> | Biodesix, Inc. | 13/741,634 | 1/15/2013 | 9,254,120 | 2/9/2016 | Issued / Granted | No |
| <u>17.</u> | Biodesix, Inc. | 13/836,436 | 3/15/2013 | 9,279,798 | 3/8/2016 | Issued / Granted | Yes |
| <u>18.</u> | Biodesix, Inc. | 14/868,575 | 9/29/2015 | 9,606,101 | 3/28/2017 | Issued / Granted | Yes |
| <u>19.</u> | Biodesix, Inc. | 13/835,909 | 3/15/2013 | 9,653,272 | 5/16/2017 | Issued / Granted | No |
| <u>20.</u> | Biodesix, Inc. | 15/584,275 | 5/2/2017 | 10,593,529 | 3/17/2020 | Issued / Granted | No |
| <u>21.</u> | Biodesix, Inc. | 13/733,018 | 1/2/2013 | 8,467,988 | 6/18/2013 | Issued / Granted | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>22.</u> | Biodesix, Inc. | 14/486,442 | 9/15/2014 | 9,477,906 | 10/25/2016 | Issued / Granted | Yes |
| <u>23.</u> | Biodesix, Inc. | 14/460,769 | 8/15/2014 | 9,211,314 | 12/15/2015 | Issued / Granted | No |
| <u>24.</u> | Biodesix, Inc. | 14/869,348 | 9/29/2015 | 9,779,204 | 10/3/2017 | Issued / Granted | No |
| <u>25.</u> | Biodesix, Inc. | 15/701,668 | 9/12/2017 | 10,489,550 | 11/26/2019 | Issued / Granted | No |
| <u>26.</u> | Biodesix, Inc. | 14/949,229 | 11/23/2015 | 9,563,744 | 2/7/2017 | Issued / Granted | No |
| <u>27.</u> | Biodesix, Inc. | 14/936,847 | 11/10/2015 | 10,037,874 | 7/31/2018 | Issued / Granted | No |
| <u>28.</u> | Biodesix, Inc. | 16/020,183 | 6/27/2018 | 10,217,620 | 2/26/2019 | Issued / Granted | No |
| <u>29.</u> | Biodesix, Inc. | 15/899,866 | 2/20/2018 | | | Allowed | No |
| <u>30.</u> | Biodesix, Inc. | 15/091,417 | 4/5/2016 | 10,713,590 | 7/14/2020 | Issued / Granted | Yes |
| <u>31.</u> | Biodesix, Inc. | 15/991,601 | 5/29/2018 | 10,950,348 | 3/16/2021 | Issued / Granted | Yes |
| <u>32.</u> | Biodesix, Inc. | 17/119,200 | 12/11/2020 | | 4/1/2021 (publication date) | Non-Provisional Filed | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>33.</u> | Biosesix, Inc. | 16/070,603 | 7/17/2018 | | 1/17/2019 (publication date) | Published | No |
| <u>34.</u> | Biosesix, Inc. | 16/092,023 | 10/8/2018 | | 4/7/2022 (publication date) | Non-Provisional Filed | No |
| <u>35.</u> | Biosesix, Inc. | 16/475,752 | 7/3/2019 | 11,150,238 | 10/19/2021 | Issued / Granted | No |
| <u>36.</u> | Biosesix, Inc. | 17/495,213 | 10/6/2021 | | 1/27/2022 (publication date) | Non-Provisional Filed | No |
| <u>37.</u> | Biosesix, Inc. | 15/862,896 | 1/5/2018 | 10,870,891 | 12/22/2020 | Issued / Granted | Yes |
| <u>38.</u> | Biosesix, Inc. | 16/772,135 | 12/15/2018 | | 12/2/2021 (publication date) | Published | No |
| <u>39.</u> | Biosesix, Inc. | 17/031,042 | 9/24/2020 | | 4/22/2021 (publication date) | Non-Provisional Filed | Yes |
| <u>40.</u> | Biosesix, Inc. | 13/306,823 | 11/29/2011 | 9,403,889 | 8/2/2016 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>41.</u> | Biodesix, Inc. | 15/685,535 | 8/24/2017 | | 1/4/2018 (publication date) | Published | No |
| <u>42.</u> | Biodesix, Inc. | 13/725,098 | 12/21/2012 | 9,091,651 | 7/28/2015 | Issued / Granted | No |
| <u>43.</u> | Biodesix, Inc. | 15/476,118 | 3/31/2017 | 10,534,002 | 1/14/2020 | Issued / Granted | No |
| <u>44.</u> | Biodesix, Inc. | 13/724,823 | 12/21/2012 | 9,201,044 | 12/1/2015 | Issued / Granted | Yes |
| <u>45.</u> | Biodesix, Inc. | 14/926,735 | 10/29/2015 | 9,588,127 | 3/7/2017 | Issued / Granted | Yes |
| <u>46.</u> | Biodesix, Inc. | 15/786,924 | 10/18/2017 | | 3/8/2018 (publication date) | Published | Yes |
| <u>47.</u> | Biodesix, Inc. | 13/775,494 | 2/23/2013 | 9,304,137 | 4/5/2016 | Issued / Granted | Yes |
| <u>48.</u> | Biodesix, Inc. | 15/051,153 | 2/23/2016 | 10,338,074 | 7/2/2019 | Issued / Granted | Yes |
| <u>49.</u> | Biodesix, Inc. | 17/470,462 | 9/9/2021 | | 6/2/2022 (publication date) | Non-Provisional Filed | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>50.</u> | Biodesix, Inc. | 16/703027 | 12/4/2019 | 11,467,167 | 10/11/2022 | Issued / Granted | No |
| <u>51.</u> | Biodesix, Inc. | 14/341,245 | 7/25/2014 | 9,297,805 | 3/29/2016 | Issued / Granted | No |
| <u>52.</u> | Biodesix, Inc. | 15/680,656 | 8/18/2017 | 11,193,935 | 12/7/2021 | Issued / Granted | No |
| <u>53.</u> | Biodesix, Inc. | 14/612,959 | 2/3/2015 | 9,594,085 | 3/14/2017 | Issued / Granted | No |
| <u>54.</u> | Biodesix, Inc. | 15/587,767 | 5/5/2017 | 10,802,027 | 10/13/2020 | Issued / Granted | Yes |
| <u>55.</u> | Biodesix, Inc. | 17/069,666 | 10/13/2020 | | 9/16/2021 (publication date) | Non-Provisional Filed | Yes |
| <u>56.</u> | Biodesix, Inc. | 11/342,366 | 1/27/2006 | 9,002,652 | 4/7/2015 | Issued / Granted | No |
| <u>57.</u> | Biodesix, Inc. | 13/570,096 | 8/8/2012 | 9,234,895 | 1/12/2016 | Issued / Granted | No |
| <u>58.</u> | Biodesix, Inc. | 13/023,366 | 2/8/2011 | 8,603,752 | 12/10/2013 | Issued / Granted | No |
| <u>59.</u> | Biodesix, Inc. | 14/100,301 | 12/9/2013 | 9,103,834 | 8/11/2015 | Issued / Granted | No |
| <u>60.</u> | Biodesix, Inc. | 12/376,951 | 6/30/2010 | 8586006 | 11/19/2013 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>61.</u> | Biodesix, Inc. | 17/430,998 | 8/13/2021 | | 10/27/2022 (publication date) | Non-Provisional Filed | Yes |
| <u>62.</u> | Biodesix, Inc. | 16/296,918 | 3/8/2019 | 10,422,729 | 9/24/2019 | Issued/Granted | No |
| <u>63.</u> | Biodesix, Inc. | 17/514,737 | 10/29/2021 | | | Allowed | Yes |
| <u>64.</u> | Biodesix, Inc. | 15/274,012 | 9/23/2016 | | 3/16/2017 | Abandoned | Yes |
| <u>65.</u> | Biodesix, Inc. | 17/344,352 | 6/10/2021 | 11,476,003 | 10/18/2022 | Non-Provisional Filed | No |
| <u>66.</u> | Biodesix, Inc. | 17/360,254 | 6/28/2021 | | 6/16/2022 (publication date) | Non-Provisional Filed | Yes |
| <u>67.</u> | Biodesix, Inc. | 17/902,055 | 9/2/2022 | | | Non-Provisional Filed | No |
| <u>68.</u> | Biodesix, Inc. | 63/150,050 | 2/16/2021 | | | Provisional Filed | No |
| <u>69.</u> | Biodesix, Inc. | 63/301,825 | 1/21/2022 | | | Provisional Filed | No |
| <u>70.</u> | Biodesix, Inc. | 63/304,107 | 1/28/2022 | | | Provisional Filed | No |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|--|
| <u>71.</u> | Biosesix, Inc. | 16/952,473 | 11/19/2020 | | 10/14/2021 (publication date) | Non-Provisional Filed | No |
| <u>72.</u> | Biosesix, Inc. | 15/207,825 | 07/12/2016 | 10,007,766 | 06/26/2018 | Issued/Granted | Yes |

Foreign Patents:

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|------------------|--|
| 1. | Biosesix, Inc. | AT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 2. | Biosesix, Inc. | AU | 2007243644.0 | 3/26/2007 | 2007243644 | 9/2/2010 | Issued / Granted | No |
| 3. | Biosesix, Inc. | BE | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 4. | Biosesix, Inc. | CA | CA 2647871 | 3/26/2007 | 2647871 | 3/11/2014 | Issued / Granted | No |
| 5. | Biosesix, Inc. | DE | 602007044874.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 6. | Biosesix, Inc. | DE | 602007057736.5 | 3/26/2007 | 2241335 | 2/27/2019 | Issued / Granted | No |
| 7. | Biosesix, Inc. | DE | 10003343.0 | 3/26/2010 | 602007057736.5 | 2/27/2019 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|------------------|--|
| 8. | Biodesix, Inc. | FR | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted | No |
| 9. | Biodesix, Inc. | GB | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted | No |
| 10. | Biodesix, Inc. | ES | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 11. | Biodesix, Inc. | FR | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 12. | Biodesix, Inc. | GB | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 13. | Biodesix, Inc. | HK | 09105283.6 | 3/26/2007 | HK1126416 | 3/26/2017 | Issued / Granted | No |
| 14. | Biodesix, Inc. | HK | 11110985.3 | 11/20/2009 | 1156696 | 1/4/2013 | Issued / Granted | No |
| 15. | Biodesix, Inc. | JP | 2009502923.0 | 3/26/2007 | 4963721 | 4/6/2012 | Issued / Granted | No |
| 16. | Biodesix, Inc. | PT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted | No |
| 17. | Biodesix, Inc. | AU | 2013281221.0 | 3/15/2013 | 2013281221 | 8/30/2018 | Issued / Granted | No |
| 18. | Biodesix, Inc. | CA | 2878441.0 | 3/15/2013 | 2,878,044 | 10/26/2021 | Issued / Granted | No |
| 19. | Biodesix, Inc. | CN | 201380043182.4, | 3/15/2013 | 104685360 | 2/13/2018 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|------------------------------|-------------------|------------------|--|
| 20 | Biodesix, Inc. | JP | 2015-520167 | 3/15/2013 | 6355630 | 6/22/2018 | Issued / Granted | No |
| 21 | Biodesix, Inc. | KR | 10-2015-7001998 | 3/15/2013 | 10-2103319 | 4/16/2020 | Issued / Granted | No |
| 22 | Biodesix, Inc. | MX | | | 365418 | 6/3/2019 | Issued / Granted | No |
| 23 | Biodesix, Inc. | SG | 112014086525, | 3/15/2013 | 11201408652S | 5/18/2018 | Issued / Granted | No |
| 24 | Biodesix, Inc. | TW | 102115975.0 | 5/3/2013 | I639001 | 10/21/2018 | Issued / Granted | No |
| 25 | Biodesix, Inc. | TW | 112014086525, | 3/15/2013 | | | Issued / Granted | No |
| 26 | Biodesix, Inc. | AU | 2014318499 | 9/15/2014 | 2014318499 | 9/28/2019 | Issued / Granted | No |
| 27 | Biodesix, Inc. | DE | 15846544.3 | 9/29/2015 | 3201812/60 2015 065 776.4 | 2/17/2021 | Issued / Granted | No |
| 28 | Biodesix, Inc. | FR | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted | No |
| 29 | Biodesix, Inc. | GB | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted | No |
| 30 | Biodesix, Inc. | BE | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |
| 31 | Biodesix, Inc. | CH | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|---------------------------|-------------------|-----------------------|--|
| 32 | Biodesix, Inc. | CN | 201680052342.5 | 7/12/2016 | ZL201680052342 | | Pending / Published | No |
| 33 | Biodesix, Inc. | CN | 202011108535.2 | 10/16/2020 | | | Non-Provisional Filed | No |
| 34 | Biodesix, Inc. | DE | 16825024.9 | 7/12/2016 | 60 2016 063 521.6/3322987 | 9/8/2021 | Non-Provisional Filed | No |
| 35 | Biodesix, Inc. | EP | 20198389.7 | 9/25/2020 | | | Issued / Granted | No |
| 36 | Biodesix, Inc. | FR | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |
| 37 | Biodesix, Inc. | IE | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |
| 38 | Biodesix, Inc. | LU | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |
| 39 | Biodesix, Inc. | UK | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted | No |
| 40 | Biodesix, Inc. | CN | 201880015865.1 | 7/11/2019 | | | Pending/Published | No |
| 41 | Biodesix, Inc. | EP | 18736676.0 | 7/11/2019 | | | Pending/Published | No |
| 42 | Biodesix, Inc. | CH | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted | No |
| 43 | Biodesix, Inc. | DE | 18150429.1 | 1/5/2018 | 60 2018 017 131.2 | 5/19/2021 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|-----------------------|--|
| 44 | Biodesix, Inc. | FR | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted | No |
| 45 | Biodesix, Inc. | UK | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted | No |
| 46 | Biodesix, Inc. | CN | 201980022391.8 | 9/25/2020 | | | Pending/Published | No |
| 47 | Biodesix, Inc. | EP | 19775503.6 | 9/10/2020 | | | Pending/Published | No |
| 48 | Biodesix, Inc. | CN | 201880081583.1 | 6/17/2020 | | | Issued / Granted | No |
| 49 | Biodesix, Inc. | EP | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted | No |
| 50 | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | 2,795,330 | 7/19/2017 | Issued / Granted | No |
| 51 | Biodesix, Inc. | HK | 15103606.3 | 12/21/2012 | 1203091 | 6/15/2018 | Issued / Granted | No |
| 52 | Biodesix, Inc. | HK | 62021029447.1 | 4/16/2021 | | | Non-Provisional Filed | No |
| 53 | Biodesix, Inc. | IE | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted | No |
| 54 | Biodesix, Inc. | IL | 233291.0 | 12/21/2012 | 233291 | 5/29/2018 | Issued / Granted | No |
| 55 | Biodesix, Inc. | IL | 257330.0 | 12/21/2012 | 257330 | 1/3/2021 | Issued / Granted | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|--------------------|--|
| 56 | Biodesix, Inc. | JP | 2014-548967 | 12/21/2012 | 6,082,026 | 1/27/2017 | Issued / Granted | No |
| 57 | Biodesix, Inc. | LU | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted | No |
| 58 | Biodesix, Inc. | NL | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted | No |
| 59 | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | | | Examination Year 1 | No |
| 60 | Biodesix, Inc. | CN | 201480052775.1 | 7/25/2014 | | | Issued / Granted | No |
| 61 | Biodesix, Inc. | HK | 17100661.9 | 7/25/2014 | HK1227103 | 8/7/2020 | Issued / Granted | No |
| 62 | Biodesix, Inc. | CN | 201780041871.X | 1/5/2019 | | | Published | No |
| 63 | Biodesix, Inc. | HK | 40012915A | 1/5/2019 | | | Published | No |
| 64 | Biodesix, Inc. | CN | 202080014537.7 | 8/13/2021 | | | Pending/Published | No |
| 65 | Biodesix, Inc. | EP | 20754917.1 | 6/24/2021 | | | Pending/Published | No |
| 66 | Biodesix, Inc. | HK | 62022048051.6 | 2/14/2022 | | | Pending/Published | No |
| 67 | Biodesix, Inc. | BE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status | Material Intellectual Property (Yes / No) |
|----|----------------|----------------------|-----------------------|-------------|----------------------|------------|-----------------------|---|
| 68 | Biodesix, Inc. | CH | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 69 | Biodesix, Inc. | CN | 202010085720.8 | 2/18/2020 | ZL 202010085720.8 | 6/22/2021 | Issued / Granted | No |
| 70 | Biodesix, Inc. | DE | 20158033.9 | 2/18/2020 | 60 2020 001 052.1 | 11/24/2021 | Issued / Granted | No |
| 71 | Biodesix, Inc. | ES | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 72 | Biodesix, Inc. | FR | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 73 | Biodesix, Inc. | GB | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 74 | Biodesix, Inc. | HK | 202010085720.8 | 2/18/2020 | | | Non-Provisional Filed | No |
| 75 | Biodesix, Inc. | IT | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 76 | Biodesix, Inc. | LI | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 77 | Biodesix, Inc. | NL | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 78 | Biodesix, Inc. | SE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted | No |
| 79 | Biodesix, Inc. | PCT | PCT/US2021/0635 60 | 12/15/2021 | | | Pending/Published | No |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|-------------------|--|
| 80 | Biodesix, Inc. | PCT | PCT/US22/16307 | 2/14/2022 | | | Provisional Filed | No |

US Trademarks:

| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|----------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|--|
| 1. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87586059 | 8/28/2017 | Registered | 5548759 | 8/28/2018 | No |
| 2. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87/422,891 | 4/24/2017 | Registered | 5363516 | 12/26/2017 | No |
| 3. | Biodesix, Inc. | BIODESIX | 77141889 | 3/27/2007 | Registered | 3483094 | 08/12/2008 | Yes |
| 4. | Biodesix, Inc. | DEEP MALDI | 85/853,947 | 2/19/2013 | Registered | 4660213 | 12/23/2014 | Yes |
| 5. | Biodesix, Inc. | DIAGNOSTIC CORTEX | 86/525907 | 2/5/2015 | Registered | 5087240 | 11/22/2016 | Yes |
| 6. | Biodesix, Inc. | EARLYCDT-LUNG | 88483638 | 6/21/2019 | Registered | 5965603 | 1/21/2020 | No |
| 7. | Biodesix, Inc. | EARLYCDT-LUNG | 88483651 | 6/21/2019 | Registered | 5965605 | 1/21/2020 | No |
| 8. | Biodesix, Inc. | GENESTRAT | 86/618561 | 5/4/2015 | Registered | 5042185 | 9/13/2016 | Yes |
| 9. | Biodesix, Inc. | GENESTRAT | 97/036444 | 9/20/2021 | Filed | | | Yes |
| 10. | Biodesix, Inc. | GENESTRAT NGS | 97/036428 | 9/20/2021 | Filed | | | Yes |
| 11. | Biodesix, Inc. | IMMUNOSTRAT | 86/588401 | 4/6/2015 | Registered | 5670693 | 2/5/2019 | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|---------------------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|--|
| 12. | Biodesix, Inc. | INDI | 86595979 | 4/13/2015 | Registered | 4966111 | 5/24/2016 | No |
| 13. | Biodesix, Inc. | IQLUNG | 97119106 | 11/10/2021 | Filed | | | Yes |
| 14. | Biodesix, Inc. | IQLUNG + Black and White Design | 97122430 | 11/12/2021 | Filed | | | Yes |
| 15. | Biodesix, Inc. | IQLUNG + Color Design | 97137988 | 11/22/2021 | Filed | | | Yes |
| 16. | Biodesix, Inc. | NODIFY | 88/329,645 | 3/7/2019 | Registered | 6137189 | 8/25/2020 | Yes |
| 17. | Biodesix, Inc. | NODIFY CDT | 88/819,075 | 3/3/2020 | Registered | 6,456,820 | 8/17/2021 | Yes |
| 18. | Biodesix, Inc. | NODIFY LUNG | 88/819033 | 3/3/2020 | Registered | 6349475 | 5/11/2021 | Yes |
| 19. | Biodesix, Inc. | NODIFY XL2 | 88/329,661 | 3/7/2019 | Registered | 6142799 | 9/1/2020 | Yes |
| 20. | Biodesix, Inc. | SIMPLESEP | 90/872801 | 8/9/2021 | Filed | | | No |
| 21. | Biodesix, Inc. | VERISTRAT | 77141838 | 3/27/2007 | Registered | 3470295 | 7/22/2008 | Yes |
| 22. | Biodesix, Inc. | VERISTRAT | 97/036452 | 9/20/2021 | Filed | | | Yes |

| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-------------------|---------------------------|--------------------|--------------------|-------------------------|--------------------------|--|
| 23. | Biodesix, Inc. | XPRESYS | 88614360 | 9/12/2019 | Allowed - deferred | | | Yes |

Foreign Trademarks

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|--|
| 1. | Biodesix, Inc. | BIODESIX | Australia | 12/8/2011 | Registered | 1464427 | No |
| 2. | Biodesix, Inc. | BIODESIX | European Union | 12/13/2011 | Registered | 10487759 | No |
| 3. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329104 | No |
| 4. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329099 | No |
| 5. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329103 | No |
| 6. | Biodesix, Inc. | BIODESIX | Japan | 12/8/2011 | Registered | 5507711 | No |
| 7. | Biodesix, Inc. | BIODESIX | Korea | 12/9/2011 | Registered | 45-0045710 | No |
| 8. | Biodesix, Inc. | BIODESIX | Israel | 12/8/2011 | Registered | 242697 | No |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|----------------------|----------------|--------------------|---------------|-------------------------|--|
| 9. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829649 | No |
| 10. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829648 | No |
| 11. | Biodesix, Inc. | BIODESIX | Taiwan | 12/12/2011 | Registered | 1582583 | No |
| 12. | Biodesix, Inc. | BIODESIX | United Kingdom | 12/13/2011 | Registered | UK00910487759 | No |
| 13. | Biodesix, Inc. | BIODESIX | Canada | 1/18/2012 | Registered | TMA894619 | No |
| 14. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714233 | No |
| 15. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714234 | No |
| 16. | Biodesix, Inc. | GENESTRAT | China | 5/2/2018 | Registered | 30620137 | No |
| 17. | Biodesix, Inc. | GENESTRAT | European Union | 9/12/2016 | Registered | 15821473 | No |
| 18. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829651 | No |
| 19. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829650 | No |
| 20. | Biodesix, Inc. | GENESTRAT | United Kingdom | 9/12/2016 | Registered | UK00915821473 | No |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|----------------------------------|----------------|--------------------|---------------|-------------------------|--|
| 21. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | China | 7/30/2013 | Registered | 1174299 | No |
| 22. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | European Union | 7/30/2013 | Registered | 1174299 | No |
| 23. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | WIPO | 7/30/2013 | Registered | 1174299 | No |
| 24. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | Japan | 7/30/2013 | Registered | 1174299 | No |
| 25. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | United Kingdom | 7/30/2013 | Registered | UK00801174299 | No |
| 26. | Biodesix, Inc. | INDI & Design | China | 7/30/2013 | Registered | 1174378 | No |
| 27. | Biodesix, Inc. | INDI & Design | European Union | 7/30/2013 | Registered | 1174378 | No |
| 28. | Biodesix, Inc. | INDI & Design | WIPO | 7/30/2013 | Registered | 1174378 | No |
| 29. | Biodesix, Inc. | INDI & Design | Japan | 7/30/2013 | Registered | 1104760 | No |
| 30. | Biodesix, Inc. | INDI & Design | United Kingdom | 7/30/2013 | Registered | UK00801174378 | No |
| 31. | Biodesix, Inc. | INDI DX | European Union | 11/13/2012 | Registered | 1149372 | No |
| 32. | Biodesix, Inc. | INDI DX | UK | 11/13/2012 | Registered | UK00801149372 | No |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|--|
| 33. | Biodesix, Inc. | INDI DX | WIPO | 11/13/2012 | Registered | 1149372 | No |
| 34. | Biodesix, Inc. | VERISTRAT | European Union | 12/13/2011 | Registered | 10487809 | No |
| 35. | Biodesix, Inc. | VERISTRAT | United Kingdom | 12/13/2011 | Registered | UK00910487809 | No |
| 36. | Biodesix, Inc. | VERISTRAT | Australia | 12/8/2011 | Registered | 1464428 | No |
| 37. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329101 | No |
| 38. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329102 | No |
| 39. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329100 | No |
| 40. | Biodesix, Inc. | VERISTRAT | China | 11/5/2012 | Registered | 11694401 | No |
| 41. | Biodesix, Inc. | VERISTRAT | Japan | 12/8/2011 | Registered | 5507712 | No |
| 42. | Biodesix, Inc. | VERISTRAT | India | 4/27/2017 | Registered | 3535601 | No |
| 43. | Biodesix, Inc. | VERISTRAT | Israel | 12/8/2011 | Registered | 242696 | No |
| 44. | Biodesix, Inc. | VERISTRAT | Taiwan | 12/12/2011 | Registered | 1582584 | No |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Material Intellectual Property (Yes / No)</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|--|
| 45. | Biosesix, Inc. | VERISTRAT | Korea | 12/9/2011 | Registered | 45-0045709 | No |
| 46. | Biosesix, Inc. | VERISTRAT | Canada | 1/18/2012 | Registered | TMA894617 | No |
| 47. | Biosesix, Inc. | XPRESYS | Canada | 6/10/2013 | Registered | TMA1023166 | No |
| 48. | Biosesix, Inc. | XPRESYS | China | 5/21/2013 | Registered | 1164302 | No |
| 49. | Biosesix, Inc. | XPRESYS | European Union | 5/21/2013 | Registered | 1164302 | No |
| 50. | Biosesix, Inc. | XPRESYS | WIPO | 5/21/2013 | Registered | 1164302 | No |
| 51. | Biosesix, Inc. | XPRESYS | Japan | 5/21/2013 | Registered | 1164302 | No |
| 52. | Biosesix, Inc. | XPRESYS | United Kingdom | 5/21/2013 | Registered | UK00801164302 | No |

Schedule 7.12
Subsidiaries

None.

Schedule 7.13A

Existing Indebtedness

1. Any Indebtedness incurred in connection with the Liens listed on Schedule 7.13B.
 2. Demand Letter – COVID-19 Accelerated and Advance Payments (CAAP) Program, dated September 23, 2022, from Noridian Healthcare Solutions, Inc. to Biodesix, Inc., in connection with Claim No. CVD20200416035910. As of September 30, 2022, the amount that remains outstanding is \$553,469.
-

Schedule 7.13B

Existing Liens

1. Liens described on the following UCC-1 Financing Statements, as the same may have been amended, supplemented or otherwise modified prior to the date hereof:
 - a. Financing Statement # 20155693667, filed as of December 1, 2015 with the Delaware Secretary of State, naming Biodesix, Inc. as Debtor and WEBBANK as Secured Party, as continued on November 9, 2020 pursuant to that UCC-3 Financing Statement Amendment # 2020 7819586.
 - b. Financing Statement # 20184331738, filed as of June 25, 2018 with the Delaware Secretary of State, naming BIODSIX, INC. as Debtor and THERMO FISHER FINANCIAL SERVICES, INC. as Secured Party.
 - c. Financing Statement # 20188660975, filed as of December 13, 2018 with the Delaware Secretary of State, naming BIODSIX, INC. as Debtor and THERMO FISHER FINANCIAL SERVICES, INC. as Secured Party.
 - d. Financing Statement # 20194460171, filed as of June 27, 2019 with the Delaware Secretary of State, naming BIODSIX, INC. as Debtor and THERMO FISHER FINANCIAL SERVICES, INC. as Secured Party.
 - e. Financing Statement # 20219519159, filed as of November 23, 2021 with the Delaware Secretary of State, naming BIODSIX, INC. as Debtor and THERMO FISHER FINANCIAL SERVICES, INC. as Secured Party.
 - f. Financing Statement # 20220402214, filed as of January 17, 2022 with the Delaware Secretary of State, naming BIODSIX, INC. as Debtor and ARROW CAPITAL SOLUTIONS, INC. as Secured Party.
-

Schedule 7.14
Material Agreements

1. Office lease between Steelwave LLC (as successor to Aero-Tech Investments, LLC) and Biodesix, Inc. for the office location at 2970 Wilderness Place, Boulder, Colorado 80301, dated October 5, 2011 and amended on January 24, 2022.
 2. Office lease between Centennial Valley Properties I, LLC and Biodesix, Inc. for the office location at 919 West Dillion Road, Louisville, CO 80027, dated March 11, 2022.
 3. The May 24, 2019 Master Services Agreement, amended on August 29, 2019 and on November 10, 2022, between Biodesix, Inc. and AstraZeneca Pharmaceuticals, LP for the FLAURA2 and AURA3 Study Statements of Work.
 4. Purchase Agreement, dated March 7, 2022, by and between Biodesix, Inc. and Lincoln Park Capital Fund, LLC.
 5. Sales Agreement by and between Biodesix, Inc. and Cowen and Company, LLC, dated November 15, 2021.
 6. VA FSS Contract 36F79723D0005, effective October 15, 2022, by and between the U.S. Department of Veteran Affairs and Biodesix, Inc.
-

Schedule 7.15
Restrictive Agreements

1. None.
-

Schedule 7.16
Real Property

Leased Real Property

1. 2970 Wilderness Place, Suite 100, Boulder, CO 80301, USA
 2. 8960 Commerce Drive, Building #6, De Soto, KS 66018, USA
 3. 1115 Colorado Avenue, Suite B, Longmont, CO 80501, USA.
 4. 919 West Dillion Road, Louisville, CO 80027
-

Schedule 7.17
Pension Matters

1. None.

Schedule 7.19(a)
Required Regulatory Approvals and Permits

1. None.
-

Schedule 7.19(b)
Regulatory Approvals

1. The Centers for Medicare & Medicaid Services (CMS) regulates all laboratory testing (except research) performed on humans in the U.S. through the Clinical Laboratory Improvement Amendments (CLIA). A CMS/CLIA certificate of compliance is the minimal regulatory approval required to offer laboratory developed testing (LDT). Biodesix, Inc. holds all Regulatory Approvals and Permits necessary or required to conduct all material Product Development and Commercialization for both clinical testing laboratories.

| Clinical Laboratory | CLIA Certificate | CLIA ID |
|---------------------|--|------------|
| Boulder, CO | High-complexity certificate of accreditation: General Immunology and Routine Chemistry | 06D2085730 |
| De Soto, KS | High-complexity certificate of accreditation: Diagnostic Immunology: Diagnostic Services Serology, Oncology: Soluble Tumor Markers | 17D1089651 |

2. Biodesix, Inc. holds additional regulatory approvals and permits for both clinical laboratories, all commercially available LDTs and GMP (Good Manufacturing Practices) Manufacturing facilities.

Additional laboratory and manufacturing regulatory permits and approvals.

| Certificate/Regulatory Body | Certificate/License Number |
|------------------------------------|-------------------------------------|
| New York CLEP Laboratory Permit | CO: 8471 KS: 8529 |
| California Lab License | CO: CDS 00800590 KS: CDS00800296 |
| Maryland Lab Permit | CO: 2249 KS: 1583 |
| Rhode Island Lab License | CO: LCO00903 KS: LCO01344 |
| Pennsylvania Lab Permit | CO: 31170 KS: 31332 |

| | |
|--|--------------------------------|
| BSI ISO Certification | CO: FM 605780 KS: FM 605780 |
| CAP-College of American Pathologists | CO: 7229634 KS: 8854273 |
| US FDA Establishment Registration (Manufacturing) | 3011854503 |
| Canada MDEL- Medical Devices and Establishment License (manufacturing) | 13638 |
| EU | 00127438 |

New York State Public Health Law (Article 5, Title V, Section 574) and regulations (Subsection 58-1.10 (g) of 10NYCRR) require that all specimens obtained for New York State must be tested by a laboratory that holds a New York State clinical laboratory permit in addition to the test-specific approval.

A full method validation submission establishing the analytic and clinical performance characteristics of all Biodesix, Inc. testing has been submitted for review and approved by the NYS Clinical Laboratory Evaluation Program (CLEP) Department of Health Wadsworth Center prior to offering the tests commercially or in a clinical trial.

NYS CLEP Test-specific approvals.

| Submission Name | Test | Project ID # | Assigned Risk | Approval Date |
|--|-------------|---------------------|----------------------|----------------------|
| VeriStrat initial approval | VeriStrat | 12634 | | 10/28/2010 |
| EarlyCDT-Lung initial approval | Nodify CDT | 16037 | | 8/31/2011 |
| VeriStrat Test (modification using dried spotted card) | VeriStrat | 29950 | | 2/26/2013 |
| GeneStrat (DNA and RNA) initial approval | GeneStrat | 51136 | | 5/24/2017 |
| GeneStrat EGFR Exon 19 Assay Modification | GeneStrat | 61359 | Moderate | 4/27/2018 |
| VeriStrat Specimen Collection Modification (BCD) | VeriStrat | 62121 | Low | 7/10/2018 |

| | | | | |
|--|------------|-------|----------------|------------|
| GeneStrat EGFR C7975 Multiplex Assay Modification | GeneStrat | 65482 | Moderate | 3/20/2019 |
| GeneStrat EGFR Uncommon Variants (UCV) Multiplex Assay Modification | GeneStrat | 67099 | Moderate | 6/13/2019 |
| Automated cfDNA Extraction Method (QIASymphony) | GeneStrat | 67819 | Low | 6/19/2019 |
| Specimen Collection Device Modification | VeriStrat | 68399 | Low | 7/15/2019 |
| ALTITUDE (XL2) - LC-MS and proteomic classifier algorithm initial approval | Nodify XL2 | 80480 | Clinical Trial | 12/16/2020 |
| Nodify CDT Modifications | Nodify | 80961 | High | 4/16/2021 |
| Nodify XL2 (original submission for commercial assay) | XL2 | 82641 | High | 5/14/2021 |
| ABA ELISA Assay (Melanoma) | Biopharma | 83979 | Clinical Trial | 6/22/2021 |
| BDSX-016 (NGS) initial approval for SNV / Indels | NGS | 84839 | High | 8/27/2021 |
| ABA ELISA Assay (Breast) | Biopharma | 87740 | Clinical Trial | 10/19/2021 |
| Nodify XL2 Modification (whole blood addition) | XL2 | 88079 | Moderate | 6/6/2022 |

| | | | | |
|---|-----------|-------|----------------|-----------|
| GeneStrat NGS Modification (CNVs and fusion/skipping) | NGS | 87900 | High | 6/22/2022 |
| ABA ELISA Assay (Pancreas) | Biopharma | 93060 | Clinical Trial | 6/15/2022 |

Schedule 7.19(e)
Regulatory Authority Notices

1. None.
-

Schedule 7.20
Capitalization

Stock Options

Biodesix, Inc. grants service condition and performance condition stock options. Stock options are granted with exercise prices equal to the fair market value of our common stock on the date of grant. As of September 30, 2022, 3,280,313 options to purchase common stock are outstanding.

Restricted Stock Units (RSUs)

Biodesix, Inc. grants service-condition RSUs. The grant date fair values of these RSUs are based on the closing market price of Biodesix, Inc.'s common stock on the grant date. As of September 30, 2022, 1,334,697 RSUs are outstanding.

Warrants

On October 27, 2020, all convertible preferred stock converted to common stock at the completion of Biodesix, Inc.'s initial public offering, and as a consequence, the warrants to purchase Series G convertible preferred stock were converted to 103,326 warrants to purchase common stock at \$4.46 per share, which have an expiration date of February 23, 2028. All such common stock warrants remain outstanding as of September 30, 2022.

Employee Stock Purchase Plan (ESPP)

Subject to any plan limitations, the ESPP allows eligible employees to contribute, normally through payroll deductions, up to 15% of their earnings for the purchase of Biodesix, Inc.'s common stock at a discounted price per share. The price at which common stock is purchased under the ESPP is equal to 85% of the fair market value of Biodesix, Inc.'s common stock on the first or last day of the offering period, whichever is lower. As of September 30, 2022, 32,520 shares are expected to be issued under the current ESPP offering period.

Subsidiaries: Schedule 7.12 is hereby incorporated by reference.

Schedule 7.22

Broker's Fee

1. Amounts due and payable under that certain Engagement Letter, dated October 22, 2021, by and between Morgan Stanley Investment Banking Division and Biodesix, Inc.
 2. Amounts due and payable under that certain Exclusive Placement Agreement, dated as of September 19, 2022, by and between Credo 180, Inc. and Biodesix, Inc.
-

Schedule 7.26

Royalty and Other Payments

1. Royalty payments owing under that certain license agreement with Oncimmune Limited related to an acquired diagnostic test, dated as of June 27, 2019, by and between Oncimmune Limited and Biodesix, Inc.
 2. Royalty payments owing under that certain Know How License Agreement with CellCarta Biosciences Inc. for the Nodify XL2 test, dated as of May 13, 2021, by and between CellCarta Biosciences Inc. and Biodesix, Inc.
-

Schedule 8.18
Post-Closing Obligations

1. Within forty-five (45) days following the Funding Date (or such later date, as may be reasonably agreed in writing by the Administrative Agent), the Administrative Agent shall have received from Obligors an executed deposit account control agreement reasonably satisfactory to the Administrative Agent with respect to the Deposit Account # 36029903 with J.P. Morgan Chase, N.A.
 2. Within forty-five (45) days following the Funding Date (or such later date, as may be reasonably agreed in writing by the Administrative Agent), the Administrative Agent shall have received from Obligors an executed deposit account control agreement reasonably satisfactory to the Administrative Agent with respect to the Government Receivables Deposit Account # 603872933 with J.P. Morgan Chase, N.A.
 3. Within forty-five (45) days following the Funding Date (or such later date, as may be reasonably agreed in writing by the Administrative Agent), the Administrative Agent shall have received from Obligors an executed deposit account control agreement reasonably satisfactory to the Administrative Agent with respect to the Deposit Account # 3298 held with Silicon Valley Bank.
 4. Within forty-five (45) days following the Funding Date (or such later date, as may be reasonably agreed in writing by the Administrative Agent), the Administrative Agent shall have received from Obligors insurance endorsements reasonably satisfactory to the Administrative Agent and as required by Section 8.05 of the Credit Agreement.
 5. Within sixty (60) days following the Funding Date (or such later date, as may be reasonably agreed in writing by the Administrative Agent), the Borrower shall use commercially reasonable efforts to deliver to the Administrative Agent executed Collateral Access Agreements in form and substance reasonably satisfactory to the Administrative Agent with respect to all leased real Property located at the following addresses:
 - a. 2970 Wilderness Place, Suite 100, Boulder, CO 80301, USA
 - b. 8960 Commerce Drive, Building #6, De Soto, KS 66018, USA
 - c. 1115 Colorado Avenue, Suite B, Longmont, CO 80501, USA
-

Schedule 9.05
Existing Investments

1. None.

Schedule 9.10
Transactions with Affiliates

1. None.
-

EXHIBIT A
TO CREDIT AGREEMENT

FORM OF GUARANTEE ASSUMPTION AGREEMENT

GUARANTEE ASSUMPTION AGREEMENT dated as of [DATE] (this “*Agreement*”) by [NAME OF ADDITIONAL GUARANTOR], a _____ [corporation] [limited liability company] (the “*Additional Guarantor*”), under that certain Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). The terms defined in the Credit Agreement are herein used as therein defined.

Pursuant to Section 8.11(a) of the Credit Agreement, the Additional Guarantor hereby agrees to become a “Guarantor” for all purposes of the Credit Agreement. Without limiting the foregoing, the Additional Guarantor hereby, jointly and severally with the other Guarantors, guarantees to each Lender and its successors and assigns the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of all Guaranteed Obligations in the same manner and to the same extent as is provided in Article 11 of the Credit Agreement. In addition, as of the date hereof, the Additional Guarantor hereby makes the representations and warranties set forth in Article 7 of the Credit Agreement, with respect to itself and its obligations under this Agreement and the other Loan Documents, as if each reference in such Sections to the Loan Documents included reference to this Agreement, such representations and warranties to be made as of the date hereof.

The Additional Guarantor hereby instructs its counsel to deliver the opinions referred to in Section 8.11(a) of the Credit Agreement to the Lenders.

THIS GUARANTEE AND ASSUMPTION AGREEMENT, THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, 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).

[signature to follow]

Exhibit A-1

IN WITNESS WHEREOF, the Additional Guarantor has caused this Guarantee Assumption Agreement to be duly executed and delivered as of the day and year first above written.

[ADDITIONAL GUARANTOR]

By:

Name:

Title:

Exhibit A-2

EXHIBIT B
TO CREDIT AGREEMENT

FORM OF BORROWING NOTICE

Date: [_____]

To: Perceptive Credit Holdings IV, LP, as Administrative Agent
c/o Perceptive Advisors LLC
51 Astor Place, 10th Floor
New York, NY 10003
Attn: Sandeep Dixit
Email:

Re: *Borrowing under Credit Agreement*

Ladies and Gentlemen:

The undersigned, BIODESIX, INC., a Delaware corporation (“*Borrower*”), refers to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). The terms defined in the Credit Agreement are herein used as therein defined.

Borrower hereby gives you notice irrevocably, pursuant to Section 2.01[(a)/(b)/(c)] of the Credit Agreement, of the borrowing of the Term Loan specified herein:

1. The proposed [Funding Date] [Tranche [B/C] Loan Borrowing Date] is [_____].
2. The amount of the proposed Borrowing is [_____].
3. The payment instructions with respect to the funds to be made available to Borrower are as set forth on the Funds Flow attached hereto as **Annex A**:
4. Borrower hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed borrowing of the Term Loan, before and after giving effect thereto and to the application of the proceeds therefrom:
 - a) the representations and warranties made by the Obligor in Article 7 of the Credit Agreement are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representation or warranty that already is qualified or modified as to “materiality” or “Material Adverse Effect” in the text thereof, which representation or warranty shall be true and correct in all respects subject to such qualification) on and as of the [Funding

Exhibit B-1

Date] [Tranche [B/C] Loan Borrowing Date] and immediately after giving effect to the application of the proceeds of the Borrowing, with the same force and effect as if made on and as of such date except that to the extent that any such representation or warranty refers to a specific earlier date in which case such representation or warranty shall be true and correct on and as of such earlier date;

b) the conditions set forth in Section [6.02/6.03/6.04] of the Credit Agreement have been satisfied on or prior to the [Funding Date] [Tranche [B/C] Loan Borrowing Date]; and

c) no Default exists or would result from the proposed Borrowing or from the application of the proceeds therefrom.

[signature to follow]

Exhibit B-2

IN WITNESS WHEREOF, Borrower has caused this Borrowing Notice to be duly executed and delivered as of the day and year first above written.

BORROWER:

BIODESIX, INC.

By:

Name:

Title:

Exhibit B-3

ANNEX A
TO BORROWING NOTICE

FUNDS FLOW

[see attached]
Exhibit B-5

EXHIBIT C
TO CREDIT AGREEMENT

FORM OF NOTE

U.S. \$[_____] [DATE]

FOR VALUE RECEIVED, the undersigned, BIODESIX, INC., a Delaware corporation, (“*Borrower*”), hereby promises to pay to [INSERT NAME OF LENDER] or its assigns (the “*Lender*”) at Lender’s principal office in [_____] in immediately available funds, the aggregate principal sum set forth above, or, if less, the aggregate unpaid principal amount of the Term Loans made by Lender pursuant to Section 2.01 of the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among Borrower, the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”), on the date or dates specified in the Credit Agreement, together with interest on the principal amount of the Term Loans from time to time outstanding thereunder at the rates, and payable in the manner and on the dates, specified in the Credit Agreement.

This Note is a Note issued pursuant to the terms of Section 2.04 of the Credit Agreement, and this Note and the holder hereof is entitled to all the benefits and security provided for thereby or referred to therein, to which the Credit Agreement reference is hereby made for a statement thereof. All defined terms used in this Note, except terms otherwise defined herein, shall have the same meaning as in the Credit Agreement.

THIS NOTE, THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, 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).

Borrower hereby waives demand, presentment, protest or notice of any kind hereunder, other than notices provided for in the Loan Documents. The non-exercise by the holder hereof of any of its rights hereunder in any particular instance shall not constitute a waiver thereof in such particular or any subsequent instance.

[signature to follow]

Exhibit C-1

THIS NOTE MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE CREDIT AGREEMENT.

BIODESIX, INC.

By:

Name:

Title:

Exhibit C-2

EXHIBIT D
TO CREDIT AGREEMENT

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). The terms defined in the Credit Agreement are herein used as therein defined.

Pursuant to the provisions of Section 5.03 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a “ten percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code and (iv) it is not a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20[]

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the "*Credit Agreement*"), among BIODESIX, INC., a Delaware corporation ("*Borrower*"), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the "*Administrative Agent*"). The terms defined in the Credit Agreement are herein used as therein defined.

Pursuant to the provisions of Section 5.03 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a "ten percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code and (iv) it is not a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments. Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 20[]

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). The terms defined in the Credit Agreement are herein used as therein defined.

Pursuant to the provisions of Section 5.03 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect to such participation, neither the undersigned nor any of its direct or indirect partners/members is a “bank” extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a “ten percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 20[]

Exhibit D-1

FORM OF U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). The terms defined in the Credit Agreement are herein used as therein defined.

Pursuant to the provisions of Section 5.03 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Credit Agreement, neither the undersigned nor any of its direct or indirect partners/members is a “bank” extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a “ten percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform Administrative Agent and the Borrower and (2) the undersigned shall have at all times furnished the Administrative Agent and the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20[]

Exhibit E-1

EXHIBIT E
TO CREDIT AGREEMENT

FORM OF COMPLIANCE CERTIFICATE

[Date]

This certificate is delivered pursuant to Section 8.01(c) of, and in connection with the consummation of the transactions contemplated in, the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Credit Agreement.

The undersigned, a duly authorized Responsible Officer of Borrower having the name and title set forth below under his signature, hereby certifies solely in his capacity as an officer of Borrower and not in any individual capacity, on behalf of Borrower for the benefit of the Lenders and pursuant to Section 8.01(c) of the Credit Agreement that such Responsible Officer of Borrower is familiar with the Credit Agreement and that, in accordance with each of the following sections of the Credit Agreement, each of the following is true on the date hereof:

In accordance with Section 8.01[(a)/(b)] of the Credit Agreement, attached hereto as Annex A [are the financial statements for the [fiscal quarter/fiscal year]] [is a link to the [Borrower’s website] [EDGAR] to the financial statements for the [fiscal quarter/fiscal year]] ended [_____] required to be delivered pursuant to Section 8.01[(a)/(b)] of the Credit Agreement. [Such financial statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates indicated therein and for the periods indicated therein 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.]

Attached hereto as Annex B are the calculations used to determine compliance with the financial covenants contained in Section 8.15 [(a) and (b)] of the Credit Agreement.

[The representations and warranties made by Borrower and the Obligors in Article 7 of the Credit Agreement are true and correct in all material respects on the date hereof; provided that to the extent that such representations and warranties specifically refer to an earlier date, they were 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 is true and correct (after giving effect to any qualification therein) in all respects [, except as provided for on **Annex C** attached hereto, with respect to each of which Borrower proposes to take the actions set forth on **Annex C**.]

Exhibit E-1

[No Default or Event of Default is continuing as of the date hereof [, except as provided for on **Annex D** attached hereto, with respect to each of which Borrower proposes to take the actions set forth on **Annex C**.]

[Set forth on **Annex E** attached hereto is a copy of each new Material Agreement.][Other than as filed with the SEC, which shall be deemed to satisfy the requirements in Section 8.01(c)(v) of the Credit Agreement, no Obligor has entered into any Material Agreement since the [Closing Date][last date the Obligors attached a Material Agreement to a compliance certificate in accordance with Section 8.01(c)(v) of the Credit Agreement.]

[Attached hereto as **Annex F** are the updated Schedules to the Credit Agreement (if any).]

[Signature follows]

Exhibit E-2

IN WITNESS WHEREOF, the undersigned has executed this certificate on the date first written above.

BIODESIX, INC.

By:

Name:

Title:

Exhibit E-3

ANNEX A
TO COMPLIANCE CERTIFICATE

[LINK TO] FINANCIAL STATEMENTS

[[see attached]]

Exhibit E-4

ANNEX B
TO COMPLIANCE CERTIFICATE

CALCULATIONS OF FINANCIAL COVENANT COMPLIANCE

| | | |
|-----|--|--|
| I. | Section 8.15(a): Minimum Liquidity | |
| A. | Balance of unencumbered cash (other than cash encumbered by the Liens granted to 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: | \$ _____ |
| B. | <i>Is Line I(A) equal to or greater than \$2,500,000?</i> | <i>Yes: In compliance; No: Not in compliance</i> |
| II. | Section 8.15(b): Minimum Net Revenue | |
| A. | All amounts paid to and received by the Obligors (on a consolidated basis for the twelve (12) month period most recently ended on the date of calculation) in the Ordinary Course of Business that, in accordance with GAAP, would be classified as net revenue: | \$ _____ |
| B. | Minimum Net Revenue agreed to in writing between the Borrower and the Administrative Agent from time to time | \$ _____ |
| C. | <i>Is Line II(A) greater than or equal to Line II(B)?</i> | <i>Yes: In compliance; No: Not in compliance</i> |

EXHIBIT F
TO CREDIT AGREEMENT

FORM OF ASSIGNMENT AND ASSUMPTION

Reference is made to the Credit Agreement and Guaranty, dated as of November 16, 2022 (as from time to time amended, restated, amended and restated, supplemented or otherwise modified, the “*Credit Agreement*”), among BIODESIX, INC., a Delaware corporation (“*Borrower*”), the Guarantors from time to time party thereto, the Lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent for the Lenders (in such capacity, the “*Administrative Agent*”). All capitalized terms used and not defined herein have the meanings ascribed thereto in the Credit Agreement.

The “Assignor” referred to on Schedule 1 hereto (the “*Assignor*”) and the “Assignee” referred to on Schedule 1 hereto (the “*Assignee*”) agrees severally with respect to all information relating to it and its assignment hereunder and on Schedule 1 hereto as follows:

1. The Assignor hereby sells and assigns, without recourse except as to the representations and warranties made by it herein, to the Assignee, and the Assignee hereby purchases and assumes from the Assignor, an interest in and to the Assignor’s rights and obligations under the Credit Agreement as of the Effective Date (as defined herein) equal to the percentage interest specified on Schedule 1 hereto of all outstanding rights and obligations under the Credit Agreement. After giving effect to such sale and assignment, the amount of the Term Loans owing to the Assignee will be as set forth on Schedule 1 hereto.

2. The Assignor (i) represents and warrants that its name set forth on Schedule 1 hereto is its legal name, that it is the legal and beneficial owner of the interest or interests being assigned by it hereunder and that such interest or interests are free and clear of any lien, encumbrance or other adverse claim; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with any Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of, or the perfection or priority of any lien or security interest created or purported to be created under or in connection with, any Loan Document or any other instrument or document furnished pursuant thereto; (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Obligor or the performance or observance by any Obligor of any of its obligations under any Loan Document or any other instrument or document furnished pursuant thereto; and (iv) attaches the Note or Notes (if any) held by the Assignor and requests that the Administrative Agent exchange such Note or Notes for a new Note or Notes payable to the Assignee (or its registered assigns) in an amount equal to the Term Loans assumed by the Assignee pursuant hereto or new Notes payable to the Assignor in an amount equal to the Term Loans retained by the Assignor under the Credit Agreement, respectively, as specified on Schedule 1 hereto.

3. The Assignee (i) confirms that, to the extent it has so requested, it has received a copy of the Credit Agreement, together with copies of such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and

Assumption; (ii) agrees that it will, independently and without reliance upon the Administrative Agent, any Assignor or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (iii) represents and warrants that its name set forth on Schedule 1 hereto is its legal name; (iv) represents and warrants that it is not an Ineligible Assignee and is not (x) a natural person, or (y) an Obligor or any of their respective Subsidiaries or Affiliates; (v) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers and discretion as are reasonably incidental thereto; (vi) agrees that it will perform in accordance with their terms all of the obligations that by the terms of the Credit Agreement are required to be performed by it as a Lender; and (vii) attaches any other forms required under Section 5.03 of the Credit Agreement (and undertakes to deliver to the Administrative Agent and Borrower originals of any such U.S. Internal Revenue Service form required to be provided pursuant to Section 5.03).

4. Following the execution of this Assignment and Assumption, it will be delivered to the Administrative Agent for acceptance and recording by the Administrative Agent. The effective date for this Assignment and Assumption (the “*Effective Date*”) shall be the date that such assignment is recorded in the Register pursuant to Section 13.05 of the Credit Agreement.

5. Upon such acceptance and recording by the Administrative Agent, as of the Effective Date, (i) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption, have the rights and obligations of a Lender thereunder and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Credit Agreement in its capacity as a Lender (other than its rights and obligations under the Loan Documents that are specified under the terms of such Loan Documents to survive the payment in full of the Obligations of the Obligors under the Loan Documents to the extent any claim thereunder relates to an event arising prior to the Effective Date of this Assignment and Assumption) and, if this Assignment and Assumption covers all of the remaining portion of the rights and obligations of the Assignor in its capacity as a Lender under the Credit Agreement, the Assignor shall cease to be a party thereto in its capacity as a Lender.

6. Upon such acceptance and recording by the Administrative Agent, from and after the Effective Date, the Administrative Agent shall make all payments under the Credit Agreement and the other Loan Documents in respect of the interest assigned hereby (including, without limitation, all payments of principal and interest with respect thereto) to the Assignee for amounts which have accrued from and after the Effective Date and to the Assignor for amounts which have accrued to but excluding the Effective Date.

7. THIS ASSIGNMENT AND ASSUMPTION, THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, 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).

8. This Assignment and Assumption 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 Assignment and Assumption by signing any such counterpart. Delivery of an executed signature page of this Assignment and Assumption 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 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

[signature page follows]

Exhibit F-3

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this Assignment and Assumption to be executed by their officers thereunto duly authorized as of the date specified thereon.

_____, as Assignor

[Type or print legal name of Assignor]

By:

Title:

Dated: _____, 20__

_____, as Assignee

[Type or print legal name of Assignee]

By:

Title:

Dated: _____, 20__

Lending Office:

Exhibit F-4

Acknowledged this ____ day
of _____, 20__

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

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

By:
Name:
Title:

By:
Name:
Title:

Exhibit F-5

SCHEDULE 1
TO
ASSIGNMENT AND ASSUMPTION

Assignee: _____

| ASSIGNOR: | | | | | <u>Total</u> |
|---|----|----|----|----|--------------|
| Percentage interest assigned | % | % | % | % | % |
| Outstanding principal amount of Term Loans assigned | \$ | \$ | \$ | \$ | \$ |
| Principal amount of Note payable to Assignor | \$ | \$ | \$ | \$ | \$ |

Exhibit F-6

EXHIBIT G
TO CREDIT AGREEMENT

FORM OF SECURITY AGREEMENT

[see attached]

Exhibit F-1

SECURITY AGREEMENT

Dated as of

November 21, 2022

among

BIODESIX, 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 November 21, 2022, is made by and among BIODESIX, INC., a Delaware corporation (“*Borrower*” and collectively with 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 Borrower, as provided in the Credit Agreement (as defined below).

Each Grantor (other than Borrower) has guaranteed the obligations of 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*”, “*Certificated Security*”, “*Certificate of Title*”, “*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.

“*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 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, 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 assets (including intangibles) not located in the United States to the extent a grant of security interest therein is restricted or prohibited by applicable law (after giving effect to applicable anti-assignment provisions of the UCC or other applicable law);

(d) any lease, license, 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 invalidity 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;

(e) any application for registration of a trademark filed on an intent-to-use 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;

(f) 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;

(g) any assets for which a pledge thereof or security interest therein would reasonably be expected to result in adverse tax consequences for any Obligor that are not de minimis;

(h) any assets for which the grant, attachment, perfection or enforcement of a security interest therein would require the registration of a Certificate of Title;

(i) (A) fee-owned real property that is not Material Real Property and (B) any leasehold interest;

(j) those assets as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost of obtaining such a security interest or perfection thereof are excessive in relation to the benefit to the Lenders of the security to be afforded thereby; and

(k) any of such Grantor's rights or interests in or under any Property to the extent that, and only for so long as, such grant of a security interest (i) is prohibited by any applicable Law, rule, regulation, order or decree of a Governmental Authority with jurisdiction over such Property or (ii) requires the consent of a Governmental Authority with jurisdiction over such Property, in each case which has not been obtained.

"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 a Subsidiary of Borrower or any other Grantor.

"Joinder" has the meaning specified in Section 5.12.

"Material Real Property" means real property (including fixtures) owned or leased by any Obligor with a fair market value or book value (if fair market value is not available), as reasonably determined by the Borrower in good faith, exceeding \$1,000,000.

"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, (ii) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of the Pledged Shares, or

resulting from a split-up, revision, reclassification or other like change of the Pledged Shares or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, the Pledged Shares, and (iii) 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 (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement); *provided* that upon repayment in full of the Obligations (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement and the Warrant Obligations), the Warrant Obligations shall no longer be “*Secured Obligations*.”

“*Secured Parties*” means collectively, the Lenders, the Administrative Agent and their successors and assigns as Lenders or 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 goodwill of the business connected with the use thereof (excluding any application for registration of a trademark filed on an intent to use 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).

“*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.

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 has rights in or is the sole beneficial owner of 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 Priority 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 United States Patent or Trademark Office or the United States Copyright Office, (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 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 (vi) 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 (other than any Shares held in a Securities Account referred to in Schedule 7), 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) The Initial Pledged Shares are, and all other Pledged Shares that in the future will constitute Collateral will be, (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 (other than any held in a Securities Account referred to in Schedule 7) 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 with the United States Copyright Office, (ii) pending and applied for or registered Patents with the United States Patent and Trademark Office, including the jurisdiction and patent number, (iii) pending and applied for or registered Trademarks with the United States Patent and Trademark Office, 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 not granted any other Person a license to use any Copyright, Patent or Trademark listed in said Schedules 4, 5 and 6 (as so supplemented), and, to such Grantor's knowledge, all registrations listed in said Schedules 4, 5 and 6 (as so supplemented) are, except as noted therein, in full force and effect.

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 insure 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 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 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
- (s) 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.

Each Grantor shall promptly (and, in any event, within thirty (30) days of such event, or such later date as the Administrative Agent may agree in its reasonable discretion) 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, promptly (x) 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 (y) 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 that does not exceed \$500,000 in value at any time, unless the aggregate value of such Instruments exceeds \$500,000), 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, 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 and substance reasonably acceptable to the Administrative Agent, as may be required to perfect the security interest created hereby in any and all (i) 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 file filings with the United States Patent and Trademark Office or United States Copyright Office (or any successor office), as applicable, in that portion of the Collateral consisting of Intellectual Property.

Notwithstanding anything in this Agreement or any other Loan Document to the contrary, none of the Grantors shall be required, nor is the Administrative Agent authorized, (i) to take any actions in, or required by the Laws of, any jurisdiction other than the United States of America to create, perfect or maintain any security interest in any assets, including (without limitation) any Intellectual Property registered outside of the United States and all real property located in a federal flood zone or outside the United States (it being understood that there shall be no security agreements, pledge agreements or similar security documents governed by the Laws of any non-U.S. jurisdiction), (ii) to take any other actions with respect to the perfection of the Administrative Agent's Lien on Intellectual Property other than filing a Short-Form IP Security Agreements, in the U.S. Patent and Trademark Office or the U.S. Copyright Office, as appropriate, and the filing of a Uniform Commercial Code financing statement or (iii) to perfect in any assets subject to Certificates of Title.

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 Administrative Agent or any holder of a Permitted Priority 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 at all times 100% of the total number of Shares of each Issuer then outstanding owned by Grantors.

(ii) Unless an Event of Default has occurred and is continuing and the Administrative Agent has given the Borrower prior written notice, Grantors shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Shares for all purposes not inconsistent with the terms of this Agreement and the other Loan Documents, *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 given the Borrower prior written notice, 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 given the Borrower prior written notice, 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 and retained by them as part of the Collateral, subject to the terms of this 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, with effect from the occurrence of an Event of Default that is continuing and solely during the continuation of such Event of Default, solely to the extent assignable, not prohibited by applicable Law, 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 rights included in the Collateral 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; *provided*, that any such license or sublicense granted by the Administrative Agent to a third party shall include reasonable and customary terms and conditions necessary to preserve the existence, validity and value of the affected Intellectual Property, including provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to Patents, copyright notices and restrictions on decompilation and reverse engineering of copyrighted software. Such non-exclusive license to the Administrative Agent 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, 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 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 (other than contingent indemnification obligations for which no claim has been made or other obligations which, by their terms, survive termination of the Credit Agreement) or earlier expiration of this Agreement or release of the Collateral, the license granted by Grantors to 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 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 \$250,000 in value at any time, unless the aggregate value of such Chattel Paper exceeds \$500,000).

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 Uniform Commercial Code 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 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 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 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; and

(viii) 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 4.09.

- (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 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 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) Business 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 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 (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement or other Loan Documents), 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 such Grantor promptly (and, in any event, within thirty (30) days of such event, or such later date as the Administrative Agent may agree in its reasonable discretion) notify the Administrative Agent of such change.

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 Administrative Agent in accordance with Section 4.01(b) of the Credit Agreement.

Section 4.09. Attorney in Fact and Proxy.

(a) 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 at any time after and during the continuance of an Event of Default. 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.

(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, 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 Uniform Commercial Code 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 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 indefeasibly 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 Uniform Commercial Code 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, 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 determined by the Administrative Agent (in its sole discretion after consultation with Borrower or the applicable Grantor). The Administrative Agent shall release any Lien covering any asset that has been disposed of in accordance with the 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 reasonable and documented out-of-pocket 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 in accordance with the Credit Agreement).

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 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 5.07. Governing Law; Submission to Jurisdiction; Etc.

- (a) *GOVERNING LAW.* THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, APPLICABLE TO CONTRACTS EXECUTED IN AND TO BE PERFORMED ENTIRETY WITHIN THAT STATE, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).
- (b) *SUBMISSION TO JURISDICTION.* EACH GRANTOR AGREES THAT ANY SUIT, ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT 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.
- (c) *WAIVER OF VENUE.* EACH GRANTOR 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 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 GRANTOR IS OR MAY BE SUBJECT, BY SUIT UPON JUDGMENT.
- (d) *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 5.08. 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 OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 5.09. 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 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.

[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:

BIODESIX, INC.

By:

Name:

Title:

SIGNATURE PAGE
SECURITY AGREEMENT

ADMINISTRATIVE AGENT:

PERCEPTIVE CREDIT HOLDINGS IV, LP

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

By:

Name: Sandeep Dixit

Title: Chief Credit Officer

By:

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 [_____] [corporation] (the “*Additional Grantor*”), in favor of PERCEPTIVE CREDIT HOLDINGS IV, LP, 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, extended, renewed or replaced from time to time, the “*Credit Agreement*”), dated as of November 16, 2022, among BIODESIX, INC., a Delaware corporation (“*Borrower*”), certain Grantors party thereto, certain Lenders party thereto and the Administrative Agent, and (ii) the Security Agreement (as amended, supplemented, 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 November 21, 2022, among certain Grantors party thereto 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 (i) a Guarantee Assumption Agreement under the Credit Agreement, and (ii) this Joinder to the Administrative Agent.

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 (other than contingent indemnification obligations and other obligations which, by their terms, survive termination of the Credit Agreement or other Loan Documents), 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.

[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:

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

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

By: _____

Name:

Title:

By: _____

Name:

Title:



SCHEDULE 1

Certain Grantor Information

| <u>Legal Name</u> | <u>Type of Organization</u> | <u>Jurisdiction of Organization</u> | <u>Organization ID Number</u> | <u>Mailing Address</u> |
|--------------------------|------------------------------------|--|--------------------------------------|--|
| Biodesix, Inc. | Corporation | Delaware | 4083680 | 2970 Wilderness Place, Suite 100, Boulder, CO 80301 |

SCHEDULE 2

Pledged Shares

None.

SCHEDULE 3
Promissory Notes

None.

SCHEDULE 4

Copyrights, Copyright Registrations and Applications for Copyright Registrations

None.

SCHEDULE 5
Patents and Patent Applications

U.S. Patents:

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>73.</u> | Biodesix, Inc. | 11/396,328 | 3/31/2006 | 7,736,905 | 6/15/2010 | Issued / Granted |
| <u>74.</u> | Biodesix, Inc. | 12/321,394 | 1/20/2009 | 7,858,390 | 12/28/2010 | Issued / Granted |
| <u>75.</u> | Biodesix, Inc. | 12/321,393 | 1/20/2009 | 7,867,775 | 1/11/2011 | Issued / Granted |
| <u>76.</u> | Biodesix, Inc. | 12/321,392 | 1/20/2009 | 7,858,389 | 12/28/2010 | Issued / Granted |
| <u>77.</u> | Biodesix, Inc. | 12/661,129 | 3/10/2010 | 7,879,620 | 2/1/2011 | Issued / Granted |
| <u>78.</u> | Biodesix, Inc. | 12/661,124 | 3/10/2010 | 8,097,469 | 1/17/2012 | Issued / Granted |
| <u>79.</u> | Biodesix, Inc. | 12/806,137 | 8/6/2010 | 9,824,182 | 11/21/2017 | Issued / Granted |
| <u>80.</u> | Biodesix, Inc. | 13/373,336 | 11/11/2011 | 9,152,758 | 10/6/2015 | Issued / Granted |
| <u>81.</u> | Biodesix, Inc. | 12/218,519 | 7/15/2008 | 8,024,282 | 9/20/2011 | Issued / Granted |
| <u>82.</u> | Biodesix, Inc. | 12/584,594 | 9/8/2009 | 7,906,342 | 3/15/2011 | Issued / Granted |
| <u>83.</u> | Biodesix, Inc. | 12/931,324 | 1/27/2011 | 8,119,418 | 2/21/2012 | Issued / Granted |
| <u>84.</u> | Biodesix, Inc. | 12/931,322 | 1/27/2011 | 8,119,417 | 2/21/2012 | Issued / Granted |
| <u>85.</u> | Biodesix, Inc. | 13/313,791 | 12/7/2011 | 8,586,379 | 11/19/2013 | Issued / Granted |
| <u>86.</u> | Biodesix, Inc. | 13/313,838 | 12/7/2011 | 8,586,380 | 11/19/2013 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>87.</u> | Biodesix, Inc. | 13/356,730 | 1/24/2012 | 8,914,238 | 12/16/2014 | Issued / Granted |
| <u>88.</u> | Biodesix, Inc. | 13/741,634 | 1/15/2013 | 9,254,120 | 2/9/2016 | Issued / Granted |
| <u>89.</u> | Biodesix, Inc. | 13/836,436 | 3/15/2013 | 9,279,798 | 3/8/2016 | Issued / Granted |
| <u>90.</u> | Biodesix, Inc. | 14/868,575 | 9/29/2015 | 9,606,101 | 3/28/2017 | Issued / Granted |
| <u>91.</u> | Biodesix, Inc. | 13/835,909 | 3/15/2013 | 9,653,272 | 5/16/2017 | Issued / Granted |
| <u>92.</u> | Biodesix, Inc. | 15/584,275 | 5/2/2017 | 10,593,529 | 3/17/2020 | Issued / Granted |
| <u>93.</u> | Biodesix, Inc. | 13/733,018 | 1/2/2013 | 8,467,988 | 6/18/2013 | Issued / Granted |
| <u>94.</u> | Biodesix, Inc. | 14/486,442 | 9/15/2014 | 9,477,906 | 10/25/2016 | Issued / Granted |
| <u>95.</u> | Biodesix, Inc. | 14/460,769 | 8/15/2014 | 9,211,314 | 12/15/2015 | Issued / Granted |
| <u>96.</u> | Biodesix, Inc. | 14/869,348 | 9/29/2015 | 9,779,204 | 10/3/2017 | Issued / Granted |
| <u>97.</u> | Biodesix, Inc. | 15/701,668 | 9/12/2017 | 10,489,550 | 11/26/2019 | Issued / Granted |
| <u>98.</u> | Biodesix, Inc. | 14/949,229 | 11/23/2015 | 9,563,744 | 2/7/2017 | Issued / Granted |
| <u>99.</u> | Biodesix, Inc. | 14/936,847 | 11/10/2015 | 10,037,874 | 7/31/2018 | Issued / Granted |
| <u>100.</u> | Biodesix, Inc. | 16/020,183 | 6/27/2018 | 10,217,620 | 2/26/2019 | Issued / Granted |
| <u>101.</u> | Biodesix, Inc. | 15/899,866 | 2/20/2018 | | | Allowed |
| <u>102.</u> | Biodesix, Inc. | 15/091,417 | 4/5/2016 | 10,713,590 | 7/14/2020 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>103.</u> | Biodesix, Inc. | 15/991,601 | 5/29/2018 | 10,950,348 | 3/16/2021 | Issued / Granted |
| <u>104.</u> | Biodesix, Inc. | 17/119,200 | 12/11/2020 | | 4/1/2021 (publication date) | Non-Provisional Filed |
| <u>105.</u> | Biodesix, Inc. | 16/070,603 | 7/17/2018 | | 1/17/2019 (publication date) | Published |
| <u>106.</u> | Biodesix, Inc. | 16/092,023 | 10/8/2018 | | 4/7/2022 (publication date) | Non-Provisional Filed |
| <u>107.</u> | Biodesix, Inc. | 16/475,752 | 7/3/2019 | 11,150,238 | 10/19/2021 | Issued / Granted |
| <u>108.</u> | Biodesix, Inc. | 17/495,213 | 10/6/2021 | | 1/27/2022 (publication date) | Non-Provisional Filed |
| <u>109.</u> | Biodesix, Inc. | 15/862,896 | 1/5/2018 | 10,870,891 | 12/22/2020 | Issued / Granted |
| <u>110.</u> | Biodesix, Inc. | 16/772,135 | 12/15/2018 | | 12/2/2021 (publication date) | Published |
| <u>111.</u> | Biodesix, Inc. | 17/031,042 | 9/24/2020 | | 4/22/2021 (publication date) | Non-Provisional Filed |
| <u>112.</u> | Biodesix, Inc. | 13/306,823 | 11/29/2011 | 9,403,889 | 8/2/2016 | Issued / Granted |
| <u>113.</u> | Biodesix, Inc. | 15/685,535 | 8/24/2017 | | 1/4/2018 (publication date) | Published |
| <u>114.</u> | Biodesix, Inc. | 13/725,098 | 12/21/2012 | 9,091,651 | 7/28/2015 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>115.</u> | Biodesix, Inc. | 15/476,118 | 3/31/2017 | 10,534,002 | 1/14/2020 | Issued / Granted |
| <u>116.</u> | Biodesix, Inc. | 13/724,823 | 12/21/2012 | 9,201,044 | 12/1/2015 | Issued / Granted |
| <u>117.</u> | Biodesix, Inc. | 14/926,735 | 10/29/2015 | 9,588,127 | 3/7/2017 | Issued / Granted |
| <u>118.</u> | Biodesix, Inc. | 15/786,924 | 10/18/2017 | | 3/8/2018 (publication date) | Published |
| <u>119.</u> | Biodesix, Inc. | 13/775,494 | 2/23/2013 | 9,304,137 | 4/5/2016 | Issued / Granted |
| <u>120.</u> | Biodesix, Inc. | 15/051,153 | 2/23/2016 | 10,338,074 | 7/2/2019 | Issued / Granted |
| <u>121.</u> | Biodesix, Inc. | 17/470,462 | 9/9/2021 | | 6/2/2022 (publication date) | Non-Provisional Filed |
| <u>122.</u> | Biodesix, Inc. | 16/703027 | 12/4/2019 | 11,467,167 | 10/11/2022 | Issued / Granted |
| <u>123.</u> | Biodesix, Inc. | 14/341,245 | 7/25/2014 | 9,297,805 | 3/29/2016 | Issued / Granted |
| <u>124.</u> | Biodesix, Inc. | 15/680,656 | 8/18/2017 | 11,193,935 | 12/7/2021 | Issued / Granted |
| <u>125.</u> | Biodesix, Inc. | 14/612,959 | 2/3/2015 | 9,594,085 | 3/14/2017 | Issued / Granted |
| <u>126.</u> | Biodesix, Inc. | 15/587,767 | 5/5/2017 | 10,802,027 | 10/13/2020 | Issued / Granted |
| <u>127.</u> | Biodesix, Inc. | 17/069,666 | 10/13/2020 | | 9/16/2021 (publication date) | Non-Provisional Filed |
| <u>128.</u> | Biodesix, Inc. | 11/342,366 | 1/27/2006 | 9,002,652 | 4/7/2015 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>129.</u> | Biodesix, Inc. | 13/570,096 | 8/8/2012 | 9,234,895 | 1/12/2016 | Issued / Granted |
| <u>130.</u> | Biodesix, Inc. | 13/023,366 | 2/8/2011 | 8,603,752 | 12/10/2013 | Issued / Granted |
| <u>131.</u> | Biodesix, Inc. | 14/100,301 | 12/9/2013 | 9,103,834 | 8/11/2015 | Issued / Granted |
| <u>132.</u> | Biodesix, Inc. | 12/376,951 | 6/30/2010 | 8586006 | 11/19/2013 | Issued / Granted |
| <u>133.</u> | Biodesix, Inc. | 17/430,998 | 8/13/2021 | | 10/27/2022 (publication date) | Non-Provisional Filed |
| <u>134.</u> | Biodesix, Inc. | 16/296,918 | 3/8/2019 | 10,422,729 | 9/24/2019 | Issued/Granted |
| <u>135.</u> | Biodesix, Inc. | 17/514,737 | 10/29/2021 | | | Allowed |
| <u>136.</u> | Biodesix, Inc. | 15/274,012 | 9/23/2016 | | 3/16/2017 | Abandoned |
| <u>137.</u> | Biodesix, Inc. | 17/344,352 | 6/10/2021 | 11,476,003 | 10/18/2022 | Non-Provisional Filed |
| <u>138.</u> | Biodesix, Inc. | 17/360,254 | 6/28/2021 | | 6/16/2022 (publication date) | Non-Provisional Filed |
| <u>139.</u> | Biodesix, Inc. | 17/902,055 | 9/2/2022 | | | Non-Provisional Filed |
| <u>140.</u> | Biodesix, Inc. | 63/150,050 | 2/16/2021 | | | Provisional Filed |
| <u>141.</u> | Biodesix, Inc. | 63/301,825 | 1/21/2022 | | | Provisional Filed |
| <u>142.</u> | Biodesix, Inc. | 63/304,107 | 1/28/2022 | | | Provisional Filed |
| <u>143.</u> | Biodesix, Inc. | 16/952,473 | 11/19/2020 | | 10/14/2021 | Non-Provisional Filed |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|----------------|
| | | | | | (publication date) | |
| <u>144.</u> | Biodesix, Inc. | 15/207,825 | 07/12/2016 | 10,007,766 | 06/26/2018 | Issued/Granted |

Foreign Patents

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|------------------|
| 81. | Biodesix, Inc. | AT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 82. | Biodesix, Inc. | AU | 2007243644.0 | 3/26/2007 | 2007243644 | 9/2/2010 | Issued / Granted |
| 83. | Biodesix, Inc. | BE | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 84. | Biodesix, Inc. | CA | CA 2647871 | 3/26/2007 | 2647871 | 3/11/2014 | Issued / Granted |
| 85. | Biodesix, Inc. | DE | 602007044874.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 86. | Biodesix, Inc. | DE | 602007057736.5 | 3/26/2007 | 2241335 | 2/27/2019 | Issued / Granted |
| 87. | Biodesix, Inc. | DE | 10003343.0 | 3/26/2010 | 602007057736.5 | 2/27/2019 | Issued / Granted |
| 88. | Biodesix, Inc. | FR | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 89. | Biodesix, Inc. | GB | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 90. | Biodesix, Inc. | ES | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 91. | Biodesix, Inc. | FR | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 92. | Biodesix, Inc. | GB | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|-----------------|-------------|---------------|------------|------------------|
| 93. | Biodesix, Inc. | HK | 09105283.6 | 3/26/2007 | HK1126416 | 3/26/2017 | Issued / Granted |
| 94. | Biodesix, Inc. | HK | 11110985.3 | 11/20/2009 | 1156696 | 1/4/2013 | Issued / Granted |
| 95. | Biodesix, Inc. | JP | 2009502923.0 | 3/26/2007 | 4963721 | 4/6/2012 | Issued / Granted |
| 96. | Biodesix, Inc. | PT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 97. | Biodesix, Inc. | AU | 2013281221.0 | 3/15/2013 | 2013281221 | 8/30/2018 | Issued / Granted |
| 98. | Biodesix, Inc. | CA | 2878441.0 | 3/15/2013 | 2,878,044 | 10/26/2021 | Issued / Granted |
| 99. | Biodesix, Inc. | CN | 201380043182.4, | 3/15/2013 | 104685360 | 2/13/2018 | Issued / Granted |
| 100. | Biodesix, Inc. | JP | 2015-520167 | 3/15/2013 | 6355630 | 6/22/2018 | Issued / Granted |
| 101. | Biodesix, Inc. | KR | 10-2015-7001998 | 3/15/2013 | 10-2103319 | 4/16/2020 | Issued / Granted |
| 102. | Biodesix, Inc. | MX | | | 365418 | 6/3/2019 | Issued / Granted |
| 103. | Biodesix, Inc. | SG | 112014086525, | 3/15/2013 | 11201408652S | 5/18/2018 | Issued / Granted |
| 104. | Biodesix, Inc. | TW | 102115975.0 | 5/3/2013 | I639001 | 10/21/2018 | Issued / Granted |
| 105. | Biodesix, Inc. | TW | 112014086525, | 3/15/2013 | | | Issued / Granted |
| 106. | Biodesix, Inc. | AU | 2014318499 | 9/15/2014 | 2014318499 | 9/28/2019 | Issued / Granted |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|---------------------------|------------|-----------------------|
| 107. | Biodesix, Inc. | DE | 15846544.3 | 9/29/2015 | 3201812/60 2015 065 776.4 | 2/17/2021 | Issued / Granted |
| 108. | Biodesix, Inc. | FR | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 109. | Biodesix, Inc. | GB | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 110. | Biodesix, Inc. | BE | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 111. | Biodesix, Inc. | CH | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 112. | Biodesix, Inc. | CN | 201680052342.5 | 7/12/2016 | ZL201680052342 | | Pending / Published |
| 113. | Biodesix, Inc. | CN | 202011108535.2 | 10/16/2020 | | | Non-Provisional Filed |
| 114. | Biodesix, Inc. | DE | 16825024.9 | 7/12/2016 | 60 2016 063 521.6/3322987 | 9/8/2021 | Non-Provisional Filed |
| 115. | Biodesix, Inc. | EP | 20198389.7 | 9/25/2020 | | | Issued / Granted |
| 116. | Biodesix, Inc. | FR | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 117. | Biodesix, Inc. | IE | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 118. | Biodesix, Inc. | LU | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 119. | Biodesix, Inc. | UK | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|-------------------|------------|-----------------------|
| 120. | Biodesix, Inc. | CN | 201880015865.1 | 7/11/2019 | | | Pending/Published |
| 121. | Biodesix, Inc. | EP | 18736676.0 | 7/11/2019 | | | Pending/Published |
| 122. | Biodesix, Inc. | CH | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 123. | Biodesix, Inc. | DE | 18150429.1 | 1/5/2018 | 60 2018 017 131.2 | 5/19/2021 | Issued / Granted |
| 124. | Biodesix, Inc. | FR | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 125. | Biodesix, Inc. | UK | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 126. | Biodesix, Inc. | CN | 201980022391.8 | 9/25/2020 | | | Pending/Published |
| 127. | Biodesix, Inc. | EP | 19775503.6 | 9/10/2020 | | | Pending/Published |
| 128. | Biodesix, Inc. | CN | 201880081583.1 | 6/17/2020 | | | Issued / Granted |
| 129. | Biodesix, Inc. | EP | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 130. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 131. | Biodesix, Inc. | HK | 15103606.3 | 12/21/2012 | 1203091 | 6/15/2018 | Issued / Granted |
| 132. | Biodesix, Inc. | HK | 62021029447.1 | 4/16/2021 | | | Non-Provisional Filed |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|---------------|------------|--------------------|
| 133. | Biodesix, Inc. | IE | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 134. | Biodesix, Inc. | IL | 233291.0 | 12/21/2012 | 233291 | 5/29/2018 | Issued / Granted |
| 135. | Biodesix, Inc. | IL | 257330.0 | 12/21/2012 | 257330 | 1/3/2021 | Issued / Granted |
| 136. | Biodesix, Inc. | JP | 2014-548967 | 12/21/2012 | 6,082,026 | 1/27/2017 | Issued / Granted |
| 137. | Biodesix, Inc. | LU | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 138. | Biodesix, Inc. | NL | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 139. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | | | Examination Year 1 |
| 140. | Biodesix, Inc. | CN | 201480052775.1 | 7/25/2014 | | | Issued / Granted |
| 141. | Biodesix, Inc. | HK | 17100661.9 | 7/25/2014 | HK1227103 | 8/7/2020 | Issued / Granted |
| 142. | Biodesix, Inc. | CN | 201780041871.X | 1/5/2019 | | | Published |
| 143. | Biodesix, Inc. | HK | 40012915A | 1/5/2019 | | | Published |
| 144. | Biodesix, Inc. | CN | 202080014537.7 | 8/13/2021 | | | Pending/Published |
| 145. | Biodesix, Inc. | EP | 20754917.1 | 6/24/2021 | | | Pending/Published |

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|----------------------|------------|-----------------------|
| 146. | Biodesix, Inc. | HK | 62022048051.6 | 2/14/2022 | | | Pending/Published |
| 147. | Biodesix, Inc. | BE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 148. | Biodesix, Inc. | CH | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 149. | Biodesix, Inc. | CN | 202010085720.8 | 2/18/2020 | ZL 202010085720.8 | 6/22/2021 | Issued / Granted |
| 150. | Biodesix, Inc. | DE | 20158033.9 | 2/18/2020 | 60 2020 001 052.1 | 11/24/2021 | Issued / Granted |
| 151. | Biodesix, Inc. | ES | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 152. | Biodesix, Inc. | FR | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 153. | Biodesix, Inc. | GB | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 154. | Biodesix, Inc. | HK | 202010085720.8 | 2/18/2020 | | | Non-Provisional Filed |
| 155. | Biodesix, Inc. | IT | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 156. | Biodesix, Inc. | LI | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 157. | Biodesix, Inc. | NL | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 158. | Biodesix, Inc. | SE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|-------------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|-------------------|
| 159. | Biodesix, Inc. | PCT | PCT/US2021/063560 | 12/15/2021 | | | Pending/Published |
| 160. | Biodesix, Inc. | PCT | PCT/US22/16307 | 2/14/2022 | | | Provisional Filed |

SCHEDULE 6

Trade Names, Trademarks, Services Marks, Trademark and Service Mark Registrations and Applications for Trademark and Service Mark Registrations

US Trademarks:

| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> |
|----------|----------------|---------------------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|
| 24. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87586059 | 8/28/2017 | Registered | 5548759 | 8/28/2018 |
| 25. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87/422,891 | 4/24/2017 | Registered | 5363516 | 12/26/2017 |
| 26. | Biodesix, Inc. | BIODESIX | 77141889 | 3/27/2007 | Registered | 3483094 | 08/12/2008 |
| 27. | Biodesix, Inc. | DEEP MALDI | 85/853,947 | 2/19/2013 | Registered | 4660213 | 12/23/2014 |
| 28. | Biodesix, Inc. | DIAGNOSTIC CORTEX | 86/525907 | 2/5/2015 | Registered | 5087240 | 11/22/2016 |
| 29. | Biodesix, Inc. | EARLYCDT-LUNG | 88483638 | 6/21/2019 | Registered | 5965603 | 1/21/2020 |
| 30. | Biodesix, Inc. | EARLYCDT-LUNG | 88483651 | 6/21/2019 | Registered | 5965605 | 1/21/2020 |
| 31. | Biodesix, Inc. | GENESTRAT | 86/618561 | 5/4/2015 | Registered | 5042185 | 9/13/2016 |
| 32. | Biodesix, Inc. | GENESTRAT | 97/036444 | 9/20/2021 | Filed | | |
| 33. | Biodesix, Inc. | GENESTRAT NGS | 97/036428 | 9/20/2021 | Filed | | |
| 34. | Biodesix, Inc. | IMMUNOSTRAT | 86/588401 | 4/6/2015 | Registered | 5670693 | 2/5/2019 |
| 35. | Biodesix, Inc. | INDI | 86595979 | 4/13/2015 | Registered | 4966111 | 5/24/2016 |
| 36. | Biodesix, Inc. | IQLUNG | 97119106 | 11/10/2021 | Filed | | |
| 37. | Biodesix, Inc. | IQLUNG + Black and White Design | 97122430 | 11/12/2021 | Filed | | |
| 38. | Biodesix, Inc. | IQLUNG + Color Design | 97137988 | 11/22/2021 | Filed | | |

| # | Obligor | Trademarks | Application Number | Filing Date | Status | Registration No. | Registration Date |
|-----|----------------|-------------|--------------------|-------------|--------------------|------------------|-------------------|
| 39. | Biodesix, Inc. | NODIFY | 88/329,645 | 3/7/2019 | Registered | 6137189 | 8/25/2020 |
| 40. | Biodesix, Inc. | NODIFY CDT | 88/819,075 | 3/3/2020 | Registered | 6,456,820 | 8/17/2021 |
| 41. | Biodesix, Inc. | NODIFY LUNG | 88/819033 | 3/3/2020 | Registered | 6349475 | 5/11/2021 |
| 42. | Biodesix, Inc. | NODIFY XL2 | 88/329,661 | 3/7/2019 | Registered | 6142799 | 9/1/2020 |
| 43. | Biodesix, Inc. | VERISTRAT | 77141838 | 3/27/2007 | Registered | 3470295 | 7/22/2008 |
| 44. | Biodesix, Inc. | VERISTRAT | 97/036452 | 9/20/2021 | Filed | | |
| 45. | Biodesix, Inc. | XPRESYS | 88614360 | 9/12/2019 | Allowed - deferred | | |

Foreign Trademarks

| # | Owner | Trademarks | Country | Filing Date | Status | Registration No. |
|-----|----------------|------------|----------------|-------------|------------|------------------|
| 53. | Biodesix, Inc. | BIODESIX | Australia | 12/8/2011 | Registered | 1464427 |
| 54. | Biodesix, Inc. | BIODESIX | European Union | 12/13/2011 | Registered | 10487759 |
| 55. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329104 |
| 56. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329099 |
| 57. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329103 |
| 58. | Biodesix, Inc. | BIODESIX | Japan | 12/8/2011 | Registered | 5507711 |
| 59. | Biodesix, Inc. | BIODESIX | Korea | 12/9/2011 | Registered | 45-0045710 |
| 60. | Biodesix, Inc. | BIODESIX | Israel | 12/8/2011 | Registered | 242697 |
| 61. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829649 |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|----------------------------------|----------------|--------------------|---------------|-------------------------|
| 62. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829648 |
| 63. | Biodesix, Inc. | BIODESIX | Taiwan | 12/12/2011 | Registered | 1582583 |
| 64. | Biodesix, Inc. | BIODESIX | United Kingdom | 12/13/2011 | Registered | UK00910487759 |
| 65. | Biodesix, Inc. | BIODESIX | Canada | 1/18/2012 | Registered | TMA894619 |
| 66. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714233 |
| 67. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714234 |
| 68. | Biodesix, Inc. | GENESTRAT | China | 5/2/2018 | Registered | 30620137 |
| 69. | Biodesix, Inc. | GENESTRAT | European Union | 9/12/2016 | Registered | 15821473 |
| 70. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829651 |
| 71. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829650 |
| 72. | Biodesix, Inc. | GENESTRAT | United Kingdom | 9/12/2016 | Registered | UK00915821473 |
| 73. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | China | 7/30/2013 | Registered | 1174299 |
| 74. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | European Union | 7/30/2013 | Registered | 1174299 |
| 75. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | WIPO | 7/30/2013 | Registered | 1174299 |
| 76. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | Japan | 7/30/2013 | Registered | 1174299 |
| 77. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | United Kingdom | 7/30/2013 | Registered | UK00801174299 |
| 78. | Biodesix, Inc. | INDI & Design | China | 7/30/2013 | Registered | 1174378 |
| 79. | Biodesix, Inc. | INDI & Design | European Union | 7/30/2013 | Registered | 1174378 |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|
| 80. | Biodesix, Inc. | INDI & Design | WIPO | 7/30/2013 | Registered | 1174378 |
| 81. | Biodesix, Inc. | INDI & Design | Japan | 7/30/2013 | Registered | 1104760 |
| 82. | Biodesix, Inc. | INDI & Design | United Kingdom | 7/30/2013 | Registered | UK00801174378 |
| 83. | Biodesix, Inc. | INDI DX | European Union | 11/13/2012 | Registered | 1149372 |
| 84. | Biodesix, Inc. | INDI DX | UK | 11/13/2012 | Registered | UK00801149372 |
| 85. | Biodesix, Inc. | INDI DX | WIPO | 11/13/2012 | Registered | 1149372 |
| 86. | Biodesix, Inc. | VERISTRAT | European Union | 12/13/2011 | Registered | 10487809 |
| 87. | Biodesix, Inc. | VERISTRAT | United Kingdom | 12/13/2011 | Registered | UK00910487809 |
| 88. | Biodesix, Inc. | VERISTRAT | Australia | 12/8/2011 | Registered | 1464428 |
| 89. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329101 |
| 90. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329102 |
| 91. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329100 |
| 92. | Biodesix, Inc. | VERISTRAT | China | 11/5/2012 | Registered | 11694401 |
| 93. | Biodesix, Inc. | VERISTRAT | Japan | 12/8/2011 | Registered | 5507712 |
| 94. | Biodesix, Inc. | VERISTRAT | India | 4/27/2017 | Registered | 3535601 |
| 95. | Biodesix, Inc. | VERISTRAT | Israel | 12/8/2011 | Registered | 242696 |
| 96. | Biodesix, Inc. | VERISTRAT | Taiwan | 12/12/2011 | Registered | 1582584 |
| 97. | Biodesix, Inc. | VERISTRAT | Korea | 12/9/2011 | Registered | 45-0045709 |

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|
| 98. | Biodesix, Inc. | VERISTRAT | Canada | 1/18/2012 | Registered | TMA894617 |
| 99. | Biodesix, Inc. | XPRESYS | Canada | 6/10/2013 | Registered | TMA1023166 |
| 100. | Biodesix, Inc. | XPRESYS | China | 5/21/2013 | Registered | 1164302 |
| 101. | Biodesix, Inc. | XPRESYS | European Union | 5/21/2013 | Registered | 1164302 |
| 102. | Biodesix, Inc. | XPRESYS | WIPO | 5/21/2013 | Registered | 1164302 |
| 103. | Biodesix, Inc. | XPRESYS | Japan | 5/21/2013 | Registered | 1164302 |
| 104. | Biodesix, Inc. | XPRESYS | United Kingdom | 5/21/2013 | Registered | UK00801164302 |

SCHEDULE 7

Deposit Accounts, Securities Accounts and Commodity Accounts

| <u>Obligor</u> | <u>Type of Account</u> | <u>Name & Address of Financial Institutions</u> |
|----------------|--------------------------|---|
| Biodesix, Inc. | Lockbox x72933 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Restricted Cash x55100 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account x93903 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account x3298 | Silicon Valley Bank |
| Biodesix, Inc. | Collateral MMA | Silicon Valley Bank |

SCHEDULE 8

Commercial Tort Claims

None.

EXHIBIT H-1
TO CREDIT AGREEMENT

FORM OF PATENT & TRADEMARK SECURITY AGREEMENT

[DATE]

WHEREAS, BIODESIX, INC., a Delaware corporation (the “**Company**”) and each entity that becomes a “Grantor” under the Security Agreement (together with the Company “**Grantors**” and each, a “**Grantor**”) are parties to that certain Security Agreement, dated as of [Date] (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**”; capitalized terms used herein without definition shall have the meanings set forth in the Security Agreement), among certain Grantors party thereto from time to time and PERCEPTIVE CREDIT HOLDINGS IV, LP, a Delaware limited partnership, as administrative agent for the Secured Parties (in such capacity, the “**Administrative Agent**”), pursuant to which Grantors have granted in favor of the Administrative Agent a lien on all of their personal property constituting Collateral, including without limitation the patents and patent applications listed on Schedule A hereto, and the trademarks and trademark applications listed on Schedule B hereto; and

WHEREAS, it is a condition to the advance of the loans and other obligations secured by the Security Agreement, that each Grantor execute and deliver this Patent and Trademark Security Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

As collateral security for the prompt and complete payment in full and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, each Grantor hereby pledges and grants to the Administrative Agent a security interest in accordance with and subject to the terms and conditions of the Security Agreement (and the Intellectual Property referenced therein) in all of such Grantor’s right, title and interest in, to and under all of the following Intellectual Property, in each case to the extent such Intellectual Property is not an Excluded Asset:

(i) all patents and patent applications, including the inventions and improvements described and claimed therein, in each case whether now owned by such Grantor or hereafter acquired by such Grantor and whether now existing or hereafter coming into existence, including without limitation those listed on **Schedule A** hereto, and all related reissues, divisions, continuations, renewals, extensions and continuations in part thereof; and

(ii) all of the trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, whether now owned by such Grantor or at any time hereafter acquired by such Grantor and whether now existing or hereafter coming into existence, that are registered with, or for which applications for

registration have been filed with, the United States Patent and Trademark Office, that are registered with, or for which applications for registration have been filed with, the United States Patent and Trademark Office, including without limitation those listed on **Schedule B** hereto, and all renewals of trademark and service mark registrations and all goodwill associated therewith (excluding any application for registration of a trademark filed on an intent-to-use 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).

Notwithstanding the foregoing, in the event of any conflict between this Patent and Trademark Security Agreement and the Security Agreement, the Security Agreement shall control.

THIS PATENT AND TRADEMARK SECURITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, 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).

[signature to follow]
Exhibit H-1-2

IN WITNESS WHEREOF, the Grantors have caused this Patent and Trademark Security Agreement to be duly executed and delivered as of the day and year first above written.

GRANTORS:

BIODESIX, INC.

By:

Name:

Title:

Exhibit H-1-3

ADMINISTRATIVE AGENT:

PERCEPTIVE CREDIT HOLDINGS IV, LP

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

By:

Name:

Title:

By:

Name:

Title:

Exhibit H-1-4

UNITED STATES PATENTS AND PATENT APPLICATIONS

| <u>Owner</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent Registration Number</u> | <u>Issue Date</u> |
|--------------|----------------------------------|--------------------|-----------------------------------|-------------------|
| | | | | |
| | | | | |
| | | | | |

Exhibit H-1-4

**Schedule B
to Patent and Trademark Security Agreement**

UNITED STATES TRADEMARKS AND TRADEMARK APPLICATIONS

| <u>Owner</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> |
|--------------|-------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|
| | | | | | | |
| | | | | | | |
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Exhibit H-1-4

EXHIBIT H-2
TO CREDIT AGREEMENT

FORM OF COPYRIGHT SECURITY AGREEMENT

[DATE]

WHEREAS, BIODESIX, INC., a Delaware corporation (“*Borrower*”) and each entity that becomes a “Grantor” under the Security Agreement (together with Borrower, the “*Grantors*” and each, a “*Grantor*”) are parties to that certain Security Agreement, dated as of [Date] (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “*Security Agreement*”; capitalized terms used herein without definition shall have the meanings set forth in the Security Agreement), among certain Grantors party thereto from time to time and PERCEPTIVE CREDIT HOLDINGS IV, LP, a Delaware limited partnership, as administrative agent for the Secured Parties (in such capacity, the “*Administrative Agent*”), pursuant to which Grantors have granted in favor of the Administrative Agent a lien on all of their personal property constituting Collateral, including without limitation the copyrights and copyright applications listed on Schedule A hereto; and

WHEREAS, it is a condition to the advance of the loans and other obligations secured by the Security Agreement, that each Grantor execute and deliver, and cause to be filed in the U.S. Copyright Office, this Copyright Security Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

As collateral security for the prompt and complete payment in full and performance 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 security interest in all of such Grantor’s right, title and interest in, to and under all copyrights, in each case to the extent such Intellectual Property is not an Excluded Asset, whether now owned or at any time hereafter acquired, of the Grantor that are registered with, or for which applications for registration have been filed with, the United States Copyright Office, including the copyrights listed on Schedule A hereto.

Notwithstanding the foregoing, in the event of any conflict between this Copyright Security Agreement and the Security Agreement, the Security Agreement shall control.

THIS COPYRIGHT SECURITY AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, 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).

[signature to follow]

Exhibit H-2-1

IN WITNESS WHEREOF, the Grantors have caused this Copyright Security Agreement to be duly executed and delivered as of the day and year first above written.

GRANTORS:

BIODESIX, INC.

By:

Name:

Title:

Exhibit H-2-2

ACCEPTED AND AGREED:

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

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

By: _
Name:
Title:

By: _
Name:
Title:

Exhibit H-2-3

SCHEDULE A
TO COPYRIGHT SECURITY AGREEMENT

UNITED STATES REGISTERED COPYRIGHTS AND COPYRIGHT APPLICATIONS

| <i>Registered Owner</i> | <i>Title</i> | <i>Filing/ Issue Date</i> | <i>Country</i> | <i>Application/ Registration Number</i> | <i>Expiration Date</i> |
|-------------------------|--------------|-------------------------------|----------------|---|----------------------------|
| | | | | | |
| | | | | | |
| | | | | | |

Exhibit H-2-1

EXHIBIT I
TO CREDIT AGREEMENT

FORM OF COLLATERAL QUESTIONNAIRE

[see attached]

Exhibit H-2-1

COLLATERAL QUESTIONNAIRE

This Collateral Questionnaire, dated as of November 16, 2022, is delivered pursuant to that certain Credit Agreement and Guaranty, dated as of the date hereof (the “*Credit Agreement*”), by and among BIODESIX, INC. (“*Borrower*”), certain Guarantors party thereto from time to time (collectively, the “*Guarantors*” and together with the Borrower, each, an “*Obligor*” and collectively, the “*Obligors*”), the lenders from time to time party thereto and PERCEPTIVE CREDIT HOLDINGS IV, LP, as administrative agent (in such capacity, together with its successors and assigns, “*Administrative Agent*”). Capitalized terms used but not defined herein shall have the meanings as assigned to them in the Credit Agreement.

I. CURRENT INFORMATION

A. Legal Names, Organizations, Jurisdictions of Organization and Organizational Identification Numbers. *The full and exact legal name (as it appears in each respective certificate or articles of incorporation, limited liability membership agreement or similar organizational documents, in each case as amended to date), the type of organization, the jurisdiction of organization (or formation, as applicable), and the organizational identification number (not tax i.d. number) of each Obligor are as follows:*

| <u>Name of Obligor</u> | <u>Type of Organization (e.g. corporation, limited liability company, limited partnership)</u> | <u>Jurisdiction of Organization/Formation</u> | <u>Organizational Identification Number</u> |
|------------------------|--|---|---|
| Biodesix, Inc. | Corporation | Delaware | 4083680 |

B. Chief Executive Offices and Mailing Addresses. *The chief executive office address and the preferred mailing address (if different than chief executive office or residence) of each Obligor are as follows:*

| <u>Name of Obligor</u> | <u>Address of Chief Executive Office</u> | <u>Mailing Address (if different than CEO or residence)</u> |
|------------------------|--|---|
| Biodesix, Inc. | 2970 Wildemess Place, Suite 100, Boulder, CO 80301 | N/A |

C. Changes in Names, Jurisdiction of Organization or Corporate Structure.

Except as set forth below, each Obligor has not changed its name, jurisdiction of organization or its corporate structure in any way (e.g. by merger, consolidation, change in corporate form, change in jurisdiction of organization or otherwise) within the past five (5) years:

None.

D. Prior Addresses.

Except as set forth below, each Obligor has not changed its chief executive office within the past five (5) years:

None.

E. Acquisitions of Equity Interests or Assets.

Except as set forth below, each Obligor has not acquired the equity interests of another entity or substantially all the assets of another entity within the past five (5) years:

| <u>Obligor</u> | <u>Date of Acquisition</u> | <u>Description of Acquisition</u> |
|----------------|----------------------------|--|
| Biodesix, Inc. | 6/30/2018 | Biodesix, Inc. acquired transferred assets of Integrated Diagnostics, Inc. |
| Biodesix, Inc. | 10/31/2019 | Oncimmune USA, LLC merged into Biodesix, Inc. |

II. ADDITIONAL INFORMATION.

Tangible Personal Property. Set forth below are all the locations where each Obligor currently maintains or has maintained any material amount (fair market value of \$25,000 or more per location) of its tangible personal property (including goods, inventory and equipment) of Obligor (whether or not in the possession of Obligor) within the past five (5) years:

| <u>Obligor</u> | <u>Address/City/State/Zip Code</u> | <u>County</u> |
|----------------|---|---------------|
| Biodesix, Inc. | 2970 Wilderness Place, Suite 100, Boulder, CO 80301 | Boulder |
| Biodesix, Inc. | 8960 Commerce Dr. De Soto, KS 66018 | Johnson |
| Biodesix, Inc. | 1115 Colorado Ave, Ste B, Longmont, CO 80501 | Boulder |
| Biodesix, Inc. | 651 Wharton Drive, Claremont, CA 91711 | Los Angeles |

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned hereto has caused this Collateral Questionnaire to be executed as of the date first above written.

BIODESIX, INC.
as Borrower

By: _____

Name:

Title:

SIGNATURE PAGE
COLLATERAL QUESTIONNAIRE

Appendix A
to Collateral Questionnaire

INVESTMENT RELATED PROPERTY

1. **Securities.** Set forth below is a list of all equity interests owned by each Obligor together with the type of organization which issued such equity interests (e.g. corporation, limited liability company, partnership or trust):

None.

2. **Securities Accounts.** Set forth below is a list of all securities accounts of each Obligor in which each Obligor customarily maintains securities or other assets having an aggregate value in excess of \$10,000:

None

3. **Deposit Accounts.** Set forth below is a list of all bank accounts of each Obligor (checking, savings, money market or the like) in which each Obligor customarily maintains in excess of \$10,000:

| <u>Obligor</u> | <u>Type of Account</u> | <u>Name & Address of Financial Institutions</u> |
|----------------|------------------------|---|
| Biodesix, Inc. | Lockbox | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Restricted Cash | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account | Silicon Valley Bank |
| Biodesix, Inc. | Collateral MMA | Silicon Valley Bank |

4. **Instruments.** Set forth below is a list of all instruments (other than checks to be deposited in the ordinary course of business) owed to the Obligors in the principal amount of greater than \$10,000:

None.

INTELLECTUAL PROPERTY

1. Set forth below is a list of all Obligors' (a) copyrights registered with, and copyright applications pending in, the United States Copyright Office or any non-United States copyright-granting governmental authority, (b) patents issued from, and patent applications pending in, the United States Patent and Trademark Office (the "USPTO") or any non-United States patent-granting governmental authority, and (c) trademarks registered with, and trademark applications pending in, the USPTO or any non-United States trademark-granting governmental authority:

a. Copyrights

None.

b. Patents

U.S. Patents:

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>145.</u> | Biodesix, Inc. | 11/396,328 | 3/31/2006 | 7,736,905 | 6/15/2010 | Issued / Granted |
| <u>146.</u> | Biodesix, Inc. | 12/321,394 | 1/20/2009 | 7,858,390 | 12/28/2010 | Issued / Granted |
| <u>147.</u> | Biodesix, Inc. | 12/321,393 | 1/20/2009 | 7,867,775 | 1/11/2011 | Issued / Granted |
| <u>148.</u> | Biodesix, Inc. | 12/321,392 | 1/20/2009 | 7,858,389 | 12/28/2010 | Issued / Granted |
| <u>149.</u> | Biodesix, Inc. | 12/661,129 | 3/10/2010 | 7,879,620 | 2/1/2011 | Issued / Granted |
| <u>150.</u> | Biodesix, Inc. | 12/661,124 | 3/10/2010 | 8,097,469 | 1/17/2012 | Issued / Granted |
| <u>151.</u> | Biodesix, Inc. | 12/806,137 | 8/6/2010 | 9,824,182 | 11/21/2017 | Issued / Granted |
| <u>152.</u> | Biodesix, Inc. | 13/373,336 | 11/11/2011 | 9,152,758 | 10/6/2015 | Issued / Granted |

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>153.</u> | Biodesix, Inc. | 12/218,519 | 7/15/2008 | 8,024,282 | 9/20/2011 | Issued / Granted |
| <u>154.</u> | Biodesix, Inc. | 12/584,594 | 9/8/2009 | 7,906,342 | 3/15/2011 | Issued / Granted |
| <u>155.</u> | Biodesix, Inc. | 12/931,324 | 1/27/2011 | 8,119,418 | 2/21/2012 | Issued / Granted |
| <u>156.</u> | Biodesix, Inc. | 12/931,322 | 1/27/2011 | 8,119,417 | 2/21/2012 | Issued / Granted |
| <u>157.</u> | Biodesix, Inc. | 13/313,791 | 12/7/2011 | 8,586,379 | 11/19/2013 | Issued / Granted |
| <u>158.</u> | Biodesix, Inc. | 13/313,838 | 12/7/2011 | 8,586,380 | 11/19/2013 | Issued / Granted |
| <u>159.</u> | Biodesix, Inc. | 13/356,730 | 1/24/2012 | 8,914,238 | 12/16/2014 | Issued / Granted |
| <u>160.</u> | Biodesix, Inc. | 13/741,634 | 1/15/2013 | 9,254,120 | 2/9/2016 | Issued / Granted |
| <u>161.</u> | Biodesix, Inc. | 13/836,436 | 3/15/2013 | 9,279,798 | 3/8/2016 | Issued / Granted |
| <u>162.</u> | Biodesix, Inc. | 14/868,575 | 9/29/2015 | 9,606,101 | 3/28/2017 | Issued / Granted |
| <u>163.</u> | Biodesix, Inc. | 13/835,909 | 3/15/2013 | 9,653,272 | 5/16/2017 | Issued / Granted |
| <u>164.</u> | Biodesix, Inc. | 15/584,275 | 5/2/2017 | 10,593,529 | 3/17/2020 | Issued / Granted |
| <u>165.</u> | Biodesix, Inc. | 13/733,018 | 1/2/2013 | 8,467,988 | 6/18/2013 | Issued / Granted |
| <u>166.</u> | Biodesix, Inc. | 14/486,442 | 9/15/2014 | 9,477,906 | 10/25/2016 | Issued / Granted |
| <u>167.</u> | Biodesix, Inc. | 14/460,769 | 8/15/2014 | 9,211,314 | 12/15/2015 | Issued / Granted |

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COLLATERAL QUESTIONNAIRE

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>168.</u> | Biodesix, Inc. | 14/869,348 | 9/29/2015 | 9,779,204 | 10/3/2017 | Issued / Granted |
| <u>169.</u> | Biodesix, Inc. | 15/701,668 | 9/12/2017 | 10,489,550 | 11/26/2019 | Issued / Granted |
| <u>170.</u> | Biodesix, Inc. | 14/949,229 | 11/23/2015 | 9,563,744 | 2/7/2017 | Issued / Granted |
| <u>171.</u> | Biodesix, Inc. | 14/936,847 | 11/10/2015 | 10,037,874 | 7/31/2018 | Issued / Granted |
| <u>172.</u> | Biodesix, Inc. | 16/020,183 | 6/27/2018 | 10,217,620 | 2/26/2019 | Issued / Granted |
| <u>173.</u> | Biodesix, Inc. | 15/899,866 | 2/20/2018 | | | Allowed |
| <u>174.</u> | Biodesix, Inc. | 15/091,417 | 4/5/2016 | 10,713,590 | 7/14/2020 | Issued / Granted |
| <u>175.</u> | Biodesix, Inc. | 15/991,601 | 5/29/2018 | 10,950,348 | 3/16/2021 | Issued / Granted |
| <u>176.</u> | Biodesix, Inc. | 17/119,200 | 12/11/2020 | | 4/1/2021 (publication date) | Non-Provisional Filed |
| <u>177.</u> | Biodesix, Inc. | 16/070,603 | 7/17/2018 | | 1/17/2019 (publication date) | Published |
| <u>178.</u> | Biodesix, Inc. | 16/092,023 | 10/8/2018 | | 4/7/2022 (publication date) | Non-Provisional Filed |
| <u>179.</u> | Biodesix, Inc. | 16/475,752 | 7/3/2019 | 11,150,238 | 10/19/2021 | Issued / Granted |
| <u>180.</u> | Biodesix, Inc. | 17/495,213 | 10/6/2021 | | 1/27/2022 (publication date) | Non-Provisional Filed |

SIGNATURE PAGE
COLLATERAL QUESTIONNAIRE

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>181.</u> | Biodesix, Inc. | 15/862,896 | 1/5/2018 | 10,870,891 | 12/22/2020 | Issued / Granted |
| <u>182.</u> | Biodesix, Inc. | 16/772,135 | 12/15/2018 | | 12/2/2021 (publication date) | Published |
| <u>183.</u> | Biodesix, Inc. | 17/031,042 | 9/24/2020 | | 4/22/2021 (publication date) | Non-Provisional Filed |
| <u>184.</u> | Biodesix, Inc. | 13/306,823 | 11/29/2011 | 9,403,889 | 8/2/2016 | Issued / Granted |
| <u>185.</u> | Biodesix, Inc. | 15/685,535 | 8/24/2017 | | 1/4/2018 (publication date) | Published |
| <u>186.</u> | Biodesix, Inc. | 13/725,098 | 12/21/2012 | 9,091,651 | 7/28/2015 | Issued / Granted |
| <u>187.</u> | Biodesix, Inc. | 15/476,118 | 3/31/2017 | 10,534,002 | 1/14/2020 | Issued / Granted |
| <u>188.</u> | Biodesix, Inc. | 13/724,823 | 12/21/2012 | 9,201,044 | 12/1/2015 | Issued / Granted |
| <u>189.</u> | Biodesix, Inc. | 14/926,735 | 10/29/2015 | 9,588,127 | 3/7/2017 | Issued / Granted |
| <u>190.</u> | Biodesix, Inc. | 15/786,924 | 10/18/2017 | | 3/8/2018 (publication date) | Published |
| <u>191.</u> | Biodesix, Inc. | 13/775,494 | 2/23/2013 | 9,304,137 | 4/5/2016 | Issued / Granted |
| <u>192.</u> | Biodesix, Inc. | 15/051,153 | 2/23/2016 | 10,338,074 | 7/2/2019 | Issued / Granted |

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COLLATERAL QUESTIONNAIRE

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>193.</u> | Biodesix, Inc. | 17/470,462 | 9/9/2021 | | 6/2/2022 (publication date) | Non-Provisional Filed |
| <u>194.</u> | Biodesix, Inc. | 16/703027 | 12/4/2019 | 11,467,167 | 10/11/2022 | Issued / Granted |
| <u>195.</u> | Biodesix, Inc. | 14/341,245 | 7/25/2014 | 9,297,805 | 3/29/2016 | Issued / Granted |
| <u>196.</u> | Biodesix, Inc. | 15/680,656 | 8/18/2017 | 11,193,935 | 12/7/2021 | Issued / Granted |
| <u>197.</u> | Biodesix, Inc. | 14/612,959 | 2/3/2015 | 9,594,085 | 3/14/2017 | Issued / Granted |
| <u>198.</u> | Biodesix, Inc. | 15/587,767 | 5/5/2017 | 10,802,027 | 10/13/2020 | Issued / Granted |
| <u>199.</u> | Biodesix, Inc. | 17/069,666 | 10/13/2020 | | 9/16/2021 (publication date) | Non-Provisional Filed |
| <u>200.</u> | Biodesix, Inc. | 11/342,366 | 1/27/2006 | 9,002,652 | 4/7/2015 | Issued / Granted |
| <u>201.</u> | Biodesix, Inc. | 13/570,096 | 8/8/2012 | 9,234,895 | 1/12/2016 | Issued / Granted |
| <u>202.</u> | Biodesix, Inc. | 13/023,366 | 2/8/2011 | 8,603,752 | 12/10/2013 | Issued / Granted |
| <u>203.</u> | Biodesix, Inc. | 14/100,301 | 12/9/2013 | 9,103,834 | 8/11/2015 | Issued / Granted |
| <u>204.</u> | Biodesix, Inc. | 12/376,951 | 6/30/2010 | 8586006 | 11/19/2013 | Issued / Granted |
| <u>205.</u> | Biodesix, Inc. | 17/430,998 | 8/13/2021 | | 10/27/2022 (publication date) | Non-Provisional Filed |

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| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|-------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>206.</u> | Biodesix, Inc. | 16/296,918 | 3/8/2019 | 10,422,729 | 9/24/2019 | Issued/Granted |
| <u>207.</u> | Biodesix, Inc. | 17/514,737 | 10/29/2021 | | | Allowed |
| <u>208.</u> | Biodesix, Inc. | 15/274,012 | 9/23/2016 | | 3/16/2017 | Abandoned |
| <u>209.</u> | Biodesix, Inc. | 17/344,352 | 6/10/2021 | 11,476,003 | 10/18/2022 | Non-Provisional Filed |
| <u>210.</u> | Biodesix, Inc. | 17/360,254 | 6/28/2021 | | 6/16/2022 (publication date) | Non-Provisional Filed |
| <u>211.</u> | Biodesix, Inc. | 17/902,055 | 9/2/2022 | | | Non-Provisional Filed |
| <u>212.</u> | Biodesix, Inc. | 63/150,050 | 2/16/2021 | | | Provisional Filed |
| <u>213.</u> | Biodesix, Inc. | 63/301,825 | 1/21/2022 | | | Provisional Filed |
| <u>214.</u> | Biodesix, Inc. | 63/304,107 | 1/28/2022 | | | Provisional Filed |
| <u>215.</u> | Biodesix, Inc. | 16/952,473 | 11/19/2020 | | 10/14/2021 (publication date) | Non-Provisional Filed |
| <u>216.</u> | Biodesix, Inc. | 15/207,825 | 07/12/2016 | 10,007,766 | 06/26/2018 | Issued/Granted |

Foreign Patents

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| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|------------------|
| 161. | Biodesix, Inc. | AT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 162. | Biodesix, Inc. | AU | 2007243644.0 | 3/26/2007 | 2007243644 | 9/2/2010 | Issued / Granted |
| 163. | Biodesix, Inc. | BE | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 164. | Biodesix, Inc. | CA | CA 2647871 | 3/26/2007 | 2647871 | 3/11/2014 | Issued / Granted |
| 165. | Biodesix, Inc. | DE | 602007044874.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 166. | Biodesix, Inc. | DE | 602007057736.5 | 3/26/2007 | 2241335 | 2/27/2019 | Issued / Granted |
| 167. | Biodesix, Inc. | DE | 10003343.0 | 3/26/2010 | 602007057736.5 | 2/27/2019 | Issued / Granted |
| 168. | Biodesix, Inc. | FR | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 169. | Biodesix, Inc. | GB | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 170. | Biodesix, Inc. | ES | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 171. | Biodesix, Inc. | FR | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 172. | Biodesix, Inc. | GB | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |

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| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|-----------------|-------------|---------------|------------|------------------|
| 173. | Biodesix, Inc. | HK | 09105283.6 | 3/26/2007 | HK1126416 | 3/26/2017 | Issued / Granted |
| 174. | Biodesix, Inc. | HK | 11110985.3 | 11/20/2009 | 1156696 | 1/4/2013 | Issued / Granted |
| 175. | Biodesix, Inc. | JP | 2009502923.0 | 3/26/2007 | 4963721 | 4/6/2012 | Issued / Granted |
| 176. | Biodesix, Inc. | PT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 177. | Biodesix, Inc. | AU | 2013281221.0 | 3/15/2013 | 2013281221 | 8/30/2018 | Issued / Granted |
| 178. | Biodesix, Inc. | CA | 2878441.0 | 3/15/2013 | 2,878,044 | 10/26/2021 | Issued / Granted |
| 179. | Biodesix, Inc. | CN | 201380043182.4, | 3/15/2013 | 104685360 | 2/13/2018 | Issued / Granted |
| 180. | Biodesix, Inc. | JP | 2015-520167 | 3/15/2013 | 6355630 | 6/22/2018 | Issued / Granted |
| 181. | Biodesix, Inc. | KR | 10-2015-7001998 | 3/15/2013 | 10-2103319 | 4/16/2020 | Issued / Granted |
| 182. | Biodesix, Inc. | MX | | | 365418 | 6/3/2019 | Issued / Granted |
| 183. | Biodesix, Inc. | SG | 112014086525, | 3/15/2013 | 11201408652S | 5/18/2018 | Issued / Granted |
| 184. | Biodesix, Inc. | TW | 102115975.0 | 5/3/2013 | 1639001 | 10/21/2018 | Issued / Granted |

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| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|------------------------------|------------|-----------------------|
| 185. | Biodesix, Inc. | TW | 112014086525, | 3/15/2013 | | | Issued / Granted |
| 186. | Biodesix, Inc. | AU | 2014318499 | 9/15/2014 | 2014318499 | 9/28/2019 | Issued / Granted |
| 187. | Biodesix, Inc. | DE | 15846544.3 | 9/29/2015 | 3201812/60 2015 065 776.4 | 2/17/2021 | Issued / Granted |
| 188. | Biodesix, Inc. | FR | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 189. | Biodesix, Inc. | GB | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 190. | Biodesix, Inc. | BE | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 191. | Biodesix, Inc. | CH | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 192. | Biodesix, Inc. | CN | 201680052342.5 | 7/12/2016 | ZL201680052342 | | Pending / Published |
| 193. | Biodesix, Inc. | CN | 202011108535.2 | 10/16/2020 | | | Non-Provisional Filed |
| 194. | Biodesix, Inc. | DE | 16825024.9 | 7/12/2016 | 60 2016 063 521.6/3322987 | 9/8/2021 | Non-Provisional Filed |
| 195. | Biodesix, Inc. | EP | 20198389.7 | 9/25/2020 | | | Issued / Granted |
| 196. | Biodesix, Inc. | FR | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |

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| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|-------------------|
| 197. | Biodesix, Inc. | IE | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 198. | Biodesix, Inc. | LU | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 199. | Biodesix, Inc. | UK | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 200. | Biodesix, Inc. | CN | 201880015865.1 | 7/11/2019 | | | Pending/Published |
| 201. | Biodesix, Inc. | EP | 18736676.0 | 7/11/2019 | | | Pending/Published |
| 202. | Biodesix, Inc. | CH | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 203. | Biodesix, Inc. | DE | 18150429.1 | 1/5/2018 | 60 2018 017 131.2 | 5/19/2021 | Issued / Granted |
| 204. | Biodesix, Inc. | FR | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 205. | Biodesix, Inc. | UK | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 206. | Biodesix, Inc. | CN | 201980022391.8 | 9/25/2020 | | | Pending/Published |
| 207. | Biodesix, Inc. | EP | 19775503.6 | 9/10/2020 | | | Pending/Published |
| 208. | Biodesix, Inc. | CN | 201880081583.1 | 6/17/2020 | | | Issued / Granted |

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| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|---------------|------------|-----------------------|
| 209. | Biodesix, Inc. | EP | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 210. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 211. | Biodesix, Inc. | HK | 15103606.3 | 12/21/2012 | 1203091 | 6/15/2018 | Issued / Granted |
| 212. | Biodesix, Inc. | HK | 62021029447.1 | 4/16/2021 | | | Non-Provisional Filed |
| 213. | Biodesix, Inc. | IE | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 214. | Biodesix, Inc. | IL | 233291.0 | 12/21/2012 | 233291 | 5/29/2018 | Issued / Granted |
| 215. | Biodesix, Inc. | IL | 257330.0 | 12/21/2012 | 257330 | 1/3/2021 | Issued / Granted |
| 216. | Biodesix, Inc. | JP | 2014-548967 | 12/21/2012 | 6,082,026 | 1/27/2017 | Issued / Granted |
| 217. | Biodesix, Inc. | LU | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 218. | Biodesix, Inc. | NL | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 219. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | | | Examination Year 1 |
| 220. | Biodesix, Inc. | CN | 201480052775.1 | 7/25/2014 | | | Issued / Granted |

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| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|----------------|-------------|----------------------|------------|-------------------|
| 221. | Biodesix, Inc. | HK | 17100661.9 | 7/25/2014 | HK1227103 | 8/7/2020 | Issued / Granted |
| 222. | Biodesix, Inc. | CN | 201780041871.X | 1/5/2019 | | | Published |
| 223. | Biodesix, Inc. | HK | 40012915A | 1/5/2019 | | | Published |
| 224. | Biodesix, Inc. | CN | 202080014537.7 | 8/13/2021 | | | Pending/Published |
| 225. | Biodesix, Inc. | EP | 20754917.1 | 6/24/2021 | | | Pending/Published |
| 226. | Biodesix, Inc. | HK | 62022048051.6 | 2/14/2022 | | | Pending/Published |
| 227. | Biodesix, Inc. | BE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 228. | Biodesix, Inc. | CH | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 229. | Biodesix, Inc. | CN | 202010085720.8 | 2/18/2020 | ZL 202010085720.8 | 6/22/2021 | Issued / Granted |
| 230. | Biodesix, Inc. | DE | 20158033.9 | 2/18/2020 | 60 2020 001 052.1 | 11/24/2021 | Issued / Granted |
| 231. | Biodesix, Inc. | ES | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 232. | Biodesix, Inc. | FR | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |

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| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|------|----------------|----------------------|-------------------|-------------|---------------|------------|-----------------------|
| 233. | Biodesix, Inc. | GB | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 234. | Biodesix, Inc. | HK | 202010085720.8 | 2/18/2020 | | | Non-Provisional Filed |
| 235. | Biodesix, Inc. | IT | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 236. | Biodesix, Inc. | LI | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 237. | Biodesix, Inc. | NL | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 238. | Biodesix, Inc. | SE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 239. | Biodesix, Inc. | PCT | PCT/US2021/063560 | 12/15/2021 | | | Pending/Published |
| 240. | Biodesix, Inc. | PCT | PCT/US22/16307 | 2/14/2022 | | | Provisional Filed |

c. Trademarks

US Trademarks:

| # | Obligor | Trademarks | Application Number | Filing Date | Status | Registration No. | Registration Date |
|-----|----------------|----------------------|--------------------|-------------|------------|------------------|-------------------|
| 46. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87586059 | 8/28/2017 | Registered | 5548759 | 8/28/2018 |
| 47. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87/422,891 | 4/24/2017 | Registered | 5363516 | 12/26/2017 |

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| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> |
|----------|----------------|---------------------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|
| 48. | Biodesix, Inc. | BIODESIX | 77141889 | 3/27/2007 | Registered | 3483094 | 08/12/2008 |
| 49. | Biodesix, Inc. | DEEP MALDI | 85/853,947 | 2/19/2013 | Registered | 4660213 | 12/23/2014 |
| 50. | Biodesix, Inc. | DIAGNOSTIC CORTEX | 86/525907 | 2/5/2015 | Registered | 5087240 | 11/22/2016 |
| 51. | Biodesix, Inc. | EARLYCDT-LUNG | 88483638 | 6/21/2019 | Registered | 5965603 | 1/21/2020 |
| 52. | Biodesix, Inc. | EARLYCDT-LUNG | 88483651 | 6/21/2019 | Registered | 5965605 | 1/21/2020 |
| 53. | Biodesix, Inc. | GENESTRAT | 86/618561 | 5/4/2015 | Registered | 5042185 | 9/13/2016 |
| 54. | Biodesix, Inc. | GENESTRAT | 97/036444 | 9/20/2021 | Filed | | |
| 55. | Biodesix, Inc. | GENESTRAT NGS | 97/036428 | 9/20/2021 | Filed | | |
| 56. | Biodesix, Inc. | IMMUNOSTRAT | 86/588401 | 4/6/2015 | Registered | 5670693 | 2/5/2019 |
| 57. | Biodesix, Inc. | INDI | 86595979 | 4/13/2015 | Registered | 4966111 | 5/24/2016 |
| 58. | Biodesix, Inc. | IQLUNG | 97119106 | 11/10/2021 | Filed | | |
| 59. | Biodesix, Inc. | IQLUNG + Black and White Design | 97122430 | 11/12/2021 | Filed | | |
| 60. | Biodesix, Inc. | IQLUNG + Color Design | 97137988 | 11/22/2021 | Filed | | |
| 61. | Biodesix, Inc. | NODIFY | 88/329,645 | 3/7/2019 | Registered | 6137189 | 8/25/2020 |
| 62. | Biodesix, Inc. | NODIFY CDT | 88/819,075 | 3/3/2020 | Registered | 6,456,820 | 8/17/2021 |
| 63. | Biodesix, Inc. | NODIFY LUNG | 88/819033 | 3/3/2020 | Registered | 6349475 | 5/11/2021 |
| 64. | Biodesix, Inc. | NODIFY XL2 | 88/329,661 | 3/7/2019 | Registered | 6142799 | 9/1/2020 |

| # | Obligor | Trademarks | Application Number | Filing Date | Status | Registration No. | Registration Date |
|-----|----------------|------------|--------------------|-------------|--------------------|------------------|-------------------|
| 65. | Biodesix, Inc. | SIMPLESEP | 90/872801 | 8/9/2021 | Filed | | |
| 66. | Biodesix, Inc. | VERISTRAT | 77141838 | 3/27/2007 | Registered | 3470295 | 7/22/2008 |
| 67. | Biodesix, Inc. | VERISTRAT | 97/036452 | 9/20/2021 | Filed | | |
| 68. | Biodesix, Inc. | XPRESYS | 88614360 | 9/12/2019 | Allowed - deferred | | |

Foreign Trademarks

| # | Owner | Trademarks | Country | Filing Date | Status | Registration No. |
|------|----------------|------------|----------------|-------------|------------|------------------|
| 105. | Biodesix, Inc. | BIODESIX | Australia | 12/8/2011 | Registered | 1464427 |
| 106. | Biodesix, Inc. | BIODESIX | European Union | 12/13/2011 | Registered | 10487759 |
| 107. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329104 |
| 108. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329099 |
| 109. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329103 |
| 110. | Biodesix, Inc. | BIODESIX | Japan | 12/8/2011 | Registered | 5507711 |
| 111. | Biodesix, Inc. | BIODESIX | Korea | 12/9/2011 | Registered | 45-0045710 |
| 112. | Biodesix, Inc. | BIODESIX | Israel | 12/8/2011 | Registered | 242697 |
| 113. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829649 |
| 114. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829648 |

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| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|----------------------------------|----------------|--------------------|---------------|-------------------------|
| 115. | Biodesix, Inc. | BIODESIX | Taiwan | 12/12/2011 | Registered | 1582583 |
| 116. | Biodesix, Inc. | BIODESIX | United Kingdom | 12/13/2011 | Registered | UK00910487759 |
| 117. | Biodesix, Inc. | BIODESIX | Canada | 1/18/2012 | Registered | TMA894619 |
| 118. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714233 |
| 119. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714234 |
| 120. | Biodesix, Inc. | GENESTRAT | China | 5/2/2018 | Registered | 30620137 |
| 121. | Biodesix, Inc. | GENESTRAT | European Union | 9/12/2016 | Registered | 15821473 |
| 122. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829651 |
| 123. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829650 |
| 124. | Biodesix, Inc. | GENESTRAT | United Kingdom | 9/12/2016 | Registered | UK00915821473 |
| 125. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | China | 7/30/2013 | Registered | 1174299 |
| 126. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | European Union | 7/30/2013 | Registered | 1174299 |
| 127. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | WIPO | 7/30/2013 | Registered | 1174299 |
| 128. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | Japan | 7/30/2013 | Registered | 1174299 |
| 129. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | United Kingdom | 7/30/2013 | Registered | UK00801174299 |

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| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|
| 130. | Biodesix, Inc. | INDI & Design | China | 7/30/2013 | Registered | 1174378 |
| 131. | Biodesix, Inc. | INDI & Design | European Union | 7/30/2013 | Registered | 1174378 |
| 132. | Biodesix, Inc. | INDI & Design | WIPO | 7/30/2013 | Registered | 1174378 |
| 133. | Biodesix, Inc. | INDI & Design | Japan | 7/30/2013 | Registered | 1104760 |
| 134. | Biodesix, Inc. | INDI & Design | United Kingdom | 7/30/2013 | Registered | UK00801174378 |
| 135. | Biodesix, Inc. | INDI DX | European Union | 11/13/2012 | Registered | 1149372 |
| 136. | Biodesix, Inc. | INDI DX | UK | 11/13/2012 | Registered | UK00801149372 |
| 137. | Biodesix, Inc. | INDI DX | WIPO | 11/13/2012 | Registered | 1149372 |
| 138. | Biodesix, Inc. | VERISTRAT | European Union | 12/13/2011 | Registered | 10487809 |
| 139. | Biodesix, Inc. | VERISTRAT | United Kingdom | 12/13/2011 | Registered | UK00910487809 |
| 140. | Biodesix, Inc. | VERISTRAT | Australia | 12/8/2011 | Registered | 1464428 |
| 141. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329101 |
| 142. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329102 |
| 143. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329100 |
| 144. | Biodesix, Inc. | VERISTRAT | China | 11/5/2012 | Registered | 11694401 |
| 145. | Biodesix, Inc. | VERISTRAT | Japan | 12/8/2011 | Registered | 5507712 |
| 146. | Biodesix, Inc. | VERISTRAT | India | 4/27/2017 | Registered | 3535601 |

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| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|
| 147. | Biodesix, Inc. | VERISTRAT | Israel | 12/8/2011 | Registered | 242696 |
| 148. | Biodesix, Inc. | VERISTRAT | Taiwan | 12/12/2011 | Registered | 1582584 |
| 149. | Biodesix, Inc. | VERISTRAT | Korea | 12/9/2011 | Registered | 45-0045709 |
| 150. | Biodesix, Inc. | VERISTRAT | Canada | 1/18/2012 | Registered | TMA894617 |
| 151. | Biodesix, Inc. | XPRESYS | Canada | 6/10/2013 | Registered | TMA1023166 |
| 152. | Biodesix, Inc. | XPRESYS | China | 5/21/2013 | Registered | 1164302 |
| 153. | Biodesix, Inc. | XPRESYS | European Union | 5/21/2013 | Registered | 1164302 |
| 154. | Biodesix, Inc. | XPRESYS | WIPO | 5/21/2013 | Registered | 1164302 |
| 155. | Biodesix, Inc. | XPRESYS | Japan | 5/21/2013 | Registered | 1164302 |
| 156. | Biodesix, Inc. | XPRESYS | United Kingdom | 5/21/2013 | Registered | UK00801164302 |

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COLLATERAL QUESTIONNAIRE

INVENTORY AND EQUIPMENT

1. Inventory and Equipment. Set forth below are all the locations where each Obligor currently maintains any material amount (aggregate fair market value of \$100,000 or more per location) of inventory and equipment of each Obligor (whether or not in the possession of the Obligor):

| <u>Obligor</u> | <u>Address/City/State/Zip Code</u> | <u>County</u> | <u>Description of Assets</u> | <u>Estimated Value as if September 30, 2022</u> |
|----------------|--|---------------|------------------------------|---|
| Biodesix, Inc. | 2970 Wilderness Place, Suite 100, boulder, CO 80301 | Boulder | Equipment and Inventory | \$4,760,045 |
| Biodesix, Inc. | 8960 Commerce Dr. De Soto, KS 66018 | Johnson | Equipment and Inventory | \$5,528,454 |
| Biodesix, Inc. | 1115 Colorado Ave, Ste B, Longmont, CO 80501 | Boulder | Equipment and Inventory | \$233,970 |

2. Warehousemen and bailees. Except as set forth below, no persons (including warehousemen and bailees) other than the Obligors have possession of any material amount (fair market value of \$100,000 or more per location) of assets of the Obligors:

None

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COLLATERAL QUESTIONNAIRE

REAL ESTATE RELATED UCC COLLATERAL

1. **Fixtures**. Set forth below are all the locations where each Obligor owns or leases any real property:

| <u>Obligor</u> | <u>Address/City/State/Zip Code</u> | <u>County</u> | <u>Owned or Leased</u> |
|----------------|---|---------------|----------------------------|
| Biodesix, Inc. | 2970 Wilderness Place, Suite 100, Boulder, CO 80301 | Boulder | Leased |
| Biodesix, Inc. | 8960 Commerce Dr., De Soto, KS 66018 | Johnson | Leased |
| Biodesix, Inc. | 1115 Colorado Ave, Ste B., Longmont, CO 80501 | Boulder | Leased |
| Biodesix, Inc. | 919 West Dillion Road, Louisville, CO 80027 | Boulder | Leased |

2. **“As Extracted” Collateral**. Set forth below are all the locations where each Obligor owns, leases or has an interest in any wellhead or minehead:

None.

3. **Timber to be Cut**. Set forth below are all locations where each Obligor owns goods that are timber to be cut:

None.

NAMES

1. Trade Names.

Current Names. Set forth below is each trade name or assumed name currently used by each Obligor or by which each Obligor is known or is transacting any business:

| <u>Obligor</u> | <u>Trade/Assumed Name</u> |
|----------------|---------------------------|
| Biodesix, Inc. | None |

Past Names. Set forth below is each trade name or assumed name used by the Obligors during the past five (5) years or by which each Obligor has been known or has transacted any business during the past five (5) years other than the names identified in Section I.A. of this Collateral Questionnaire:

| <u>Obligor</u> | <u>Trade/Assumed Name</u> |
|----------------|---------------------------|
| Biodesix, Inc. | None |

EXHIBIT J
TO CREDIT AGREEMENT

FORM OF WARRANT CERTIFICATE

[see attached]

SIGNATURE PAGE
COLLATERAL QUESTIONNAIRE

SECURITY AGREEMENT

Dated as of

November 21, 2022

among

BIODESIX, 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 November 21, 2022, is made by and among BIODESIX, INC., a Delaware corporation (“*Borrower*” and collectively with 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 Borrower, as provided in the Credit Agreement (as defined below).

Each Grantor (other than Borrower) has guaranteed the obligations of 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*”, “*Certificated Security*”, “*Certificate of Title*”, “*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. *Additional Definitions*. In addition, as used herein:

“*Administrative Agent*” 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 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, 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 assets (including intangibles) not located in the United States to the extent a grant of security interest therein is restricted or prohibited by applicable law (after giving effect to applicable anti-assignment provisions of the UCC or other applicable law);

(d) any lease, license, 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 invalidity 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;

(e) any application for registration of a trademark filed on an intent-to-use 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;

(f) 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;

(g) any assets for which a pledge thereof or security interest therein would reasonably be expected to result in adverse tax consequences for any Obligor that are not de minimis;

(h) any assets for which the grant, attachment, perfection or enforcement of a security interest therein would require the registration of a Certificate of Title;

(i) (A) fee-owned real property that is not Material Real Property and (B) any leasehold interest;

(j) those assets as to which the Administrative Agent and the Borrower reasonably agree in writing that the cost of obtaining such a security interest or perfection thereof are excessive in relation to the benefit to the Lenders of the security to be afforded thereby; and

(k) any of such Grantor's rights or interests in or under any Property to the extent that, and only for so long as, such grant of a security interest (i) is prohibited by any applicable Law, rule, regulation, order or decree of a Governmental Authority with jurisdiction over such Property or (ii) requires the consent of a Governmental Authority with jurisdiction over such Property, in each case which has not been obtained.

"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 a Subsidiary of Borrower or any other Grantor.

"Joinder" has the meaning specified in Section 5.12.

"Material Real Property" means real property (including fixtures) owned or leased by any Obligor with a fair market value or book value (if fair market value is not available), as reasonably determined by the Borrower in good faith, exceeding \$1,000,000.

"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, (ii) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of the Pledged Shares, or resulting from a split-up, revision, reclassification or other like change of the Pledged Shares or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, the Pledged Shares, and (iii) 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 (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement); *provided* that upon repayment in full of the Obligations (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement and the Warrant Obligations), the Warrant Obligations shall no longer be “*Secured Obligations*.”

“*Secured Parties*” means collectively, the Lenders, the Administrative Agent and their successors and assigns as Lenders or 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 goodwill of the business connected with the use thereof (excluding any application for registration of a trademark filed on an intent to use 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).

“*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 has rights in or is the sole beneficial owner of 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 Priority 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 United States Patent or Trademark Office or the United States Copyright Office, (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 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 (vi) 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 (other than any Shares held in a Securities Account referred to in Schedule 7), 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) The Initial Pledged Shares are, and all other Pledged Shares that in the future will constitute Collateral will be, (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 (other than any held in a Securities Account referred to in Schedule 7) 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 with the United States Copyright Office, (ii) pending and applied for or registered Patents with the United States Patent and Trademark Office, including the jurisdiction and patent number, (iii) pending and applied for or registered Trademarks with the United States Patent and Trademark Office, 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 not granted any other Person a license to use any Copyright, Patent or Trademark listed in said Schedules 4, 5 and 6 (as so supplemented), and, to such Grantor's knowledge, all registrations listed in said Schedules 4, 5 and 6 (as so supplemented) are, except as noted therein, in full force and effect.

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 insure 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 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 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

(s) 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. Each Grantor shall promptly (and, in any event, within thirty (30) days of such event, or such later date as the Administrative Agent may agree in its reasonable discretion) 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, promptly (x) 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 (y) 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 that does not exceed \$500,000 in value at any time, unless the aggregate value of such Instruments exceeds \$500,000), 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, 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 and substance reasonably acceptable to the Administrative Agent, as may be required to perfect the security interest created hereby in any and all (i) 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 file filings with the United States Patent and Trademark Office or United States Copyright Office (or any successor office), as applicable, in that portion of the Collateral consisting of Intellectual Property.

Notwithstanding anything in this Agreement or any other Loan Document to the contrary, none of the Grantors shall be required, nor is the Administrative Agent authorized, (i) to take any actions in, or required by the Laws of, any jurisdiction other than the United States of America to create, perfect or maintain any security interest in any assets, including (without limitation) any Intellectual Property registered outside of the United States and all real property located in a federal flood zone or outside the United

States (it being understood that there shall be no security agreements, pledge agreements or similar security documents governed by the Laws of any non-U.S. jurisdiction), (ii) to take any other actions with respect to the perfection of the Administrative Agent's Lien on Intellectual Property other than filing a Short-Form IP Security Agreements, in the U.S. Patent and Trademark Office or the U.S. Copyright Office, as appropriate, and the filing of a Uniform Commercial Code financing statement or (iii) to perfect in any assets subject to Certificates of Title.

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 Administrative Agent or any holder of a Permitted Priority 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 at all times 100% of the total number of Shares of each Issuer then outstanding owned by Grantors.

(ii) Unless an Event of Default has occurred and is continuing and the Administrative Agent has given the Borrower prior written notice, Grantors shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Shares for all purposes not inconsistent with the terms of this Agreement and the other Loan Documents, *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 given the Borrower prior written notice, 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 given the Borrower prior written notice, 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 and retained by them as part of the Collateral, subject to the terms of this 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, with effect from the occurrence of an Event of Default that is continuing and solely during the continuation of such Event of Default, solely to the extent assignable, not prohibited by applicable Law, 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 rights included in the Collateral 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; *provided*, that any such license or sublicense granted by the Administrative Agent to a third party shall include reasonable and customary terms and conditions necessary to preserve the existence, validity and value of the affected Intellectual Property, including provisions requiring the continuing confidential handling of trade secrets, requiring the use of appropriate notices and prohibiting the use of false notices, quality control and inurement provisions with regard to Trademarks, patent designation provisions with regard to Patents, copyright notices and restrictions on decompilation and reverse engineering of copyrighted software. Such non-exclusive license to the Administrative Agent 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, 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 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 (other than contingent indemnification obligations for which no claim has been made or other obligations

which, by their terms, survive termination of the Credit Agreement) or earlier expiration of this Agreement or release of the Collateral, the license granted by Grantors to 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 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 \$250,000 in value at any time, unless the aggregate value of such Chattel Paper exceeds \$500,000).

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 Uniform Commercial Code 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 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 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 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; and

(viii) 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 4.09.

(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 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 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) Business 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 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 (other than contingent indemnification obligations or other obligations which, by their terms, survive termination of the Credit Agreement or other Loan Documents), 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 such Grantor promptly (and, in any event, within

thirty (30) days of such event, or such later date as the Administrative Agent may agree in its reasonable discretion) notify the Administrative Agent of such change.

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 Administrative Agent in accordance with Section 4.01(b) 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 at any time after and during the continuance of an Event of Default. 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.

(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, 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 Uniform Commercial Code 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 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 indefeasibly 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 Uniform Commercial Code 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, 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 determined by the Administrative Agent (in its sole discretion after consultation with Borrower or the applicable Grantor). The Administrative Agent shall release any Lien covering any asset that has been disposed of in accordance with the 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 reasonable and documented out-of-pocket 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 in accordance with the Credit Agreement).

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 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 5.07. Governing Law; Submission to Jurisdiction; Etc.

(a) **GOVERNING LAW.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR RELATED HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, APPLICABLE TO CONTRACTS EXECUTED IN AND TO BE PERFORMED ENTIRETY WITHIN THAT STATE, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

(b) **SUBMISSION TO JURISDICTION.** EACH GRANTOR AGREES THAT ANY SUIT, ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT 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.

(c) *WAIVER OF VENUE.* EACH GRANTOR 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 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 GRANTOR IS OR MAY BE SUBJECT, BY SUIT UPON JUDGMENT.

(d) *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 5.08. 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 OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 5.09. 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 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.

[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:

BIODESIX, INC.

By: /s/ Robin Harper Cowie
Name: Robin Harper Cowie
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 [_____] [corporation] (the “*Additional Grantor*”), in favor of PERCEPTIVE CREDIT HOLDINGS IV, LP, 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, extended, renewed or replaced from time to time, the “*Credit Agreement*”), dated as of November 16, 2022, among BIODESIX, INC., a Delaware corporation (“*Borrower*”), certain Grantors party thereto, certain Lenders party thereto and the Administrative Agent, and (ii) the Security Agreement (as amended, supplemented, 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 November 21, 2022, among certain Grantors party thereto 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 (i) a Guarantee Assumption Agreement under the Credit Agreement, and (ii) this Joinder to the Administrative Agent.

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 (other than contingent indemnification obligations and other obligations which, by their terms, survive termination of the Credit Agreement or other Loan Documents), 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.

[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:

PERCEPTIVE CREDIT HOLDINGS IV, LP,
as Administrative Agent

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

By: _____

Name:

Title:

By: _____

Name:

Title:

Schedules to Security Agreement

SCHEDULE 1

Certain Grantor Information

| <u>Legal Name</u> | <u>Type of Organization</u> | <u>Jurisdiction of Organization</u> | <u>Organization ID Number</u> | <u>Mailing Address</u> |
|--------------------------|------------------------------------|--|--------------------------------------|--|
| Biodesix, Inc. | Corporation | Delaware | 4083680 | 2970 Wilderness Place, Suite 100, Boulder, CO 80301 |

Schedules to Security Agreement

SCHEDULE 2

Pledged Shares

None.

Schedules to Security Agreement

SCHEDULE 3

Promissory Notes

None.

Schedules to Security Agreement

SCHEDULE 4

Copyrights, Copyright Registrations and Applications for Copyright Registrations

None.

Schedules to Security Agreement

SCHEDULE 5
Patents and Patent Applications

U.S. Patents:

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>1.</u> | Biodesix, Inc. | 11/396,328 | 3/31/2006 | 7,736,905 | 6/15/2010 | Issued / Granted |
| <u>2.</u> | Biodesix, Inc. | 12/321,394 | 1/20/2009 | 7,858,390 | 12/28/2010 | Issued / Granted |
| <u>3.</u> | Biodesix, Inc. | 12/321,393 | 1/20/2009 | 7,867,775 | 1/11/2011 | Issued / Granted |
| <u>4.</u> | Biodesix, Inc. | 12/321,392 | 1/20/2009 | 7,858,389 | 12/28/2010 | Issued / Granted |
| <u>5.</u> | Biodesix, Inc. | 12/661,129 | 3/10/2010 | 7,879,620 | 2/1/2011 | Issued / Granted |
| <u>6.</u> | Biodesix, Inc. | 12/661,124 | 3/10/2010 | 8,097,469 | 1/17/2012 | Issued / Granted |
| <u>7.</u> | Biodesix, Inc. | 12/806,137 | 8/6/2010 | 9,824,182 | 11/21/2017 | Issued / Granted |
| <u>8.</u> | Biodesix, Inc. | 13/373,336 | 11/11/2011 | 9,152,758 | 10/6/2015 | Issued / Granted |
| <u>9.</u> | Biodesix, Inc. | 12/218,519 | 7/15/2008 | 8,024,282 | 9/20/2011 | Issued / Granted |
| <u>10.</u> | Biodesix, Inc. | 12/584,594 | 9/8/2009 | 7,906,342 | 3/15/2011 | Issued / Granted |
| <u>11.</u> | Biodesix, Inc. | 12/931,324 | 1/27/2011 | 8,119,418 | 2/21/2012 | Issued / Granted |
| <u>12.</u> | Biodesix, Inc. | 12/931,322 | 1/27/2011 | 8,119,417 | 2/21/2012 | Issued / Granted |
| <u>13.</u> | Biodesix, Inc. | 13/313,791 | 12/7/2011 | 8,586,379 | 11/19/2013 | Issued / Granted |
| <u>14.</u> | Biodesix, Inc. | 13/313,838 | 12/7/2011 | 8,586,380 | 11/19/2013 | Issued / Granted |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|------------------|
| <u>15.</u> | Biodesix, Inc. | 13/356,730 | 1/24/2012 | 8,914,238 | 12/16/2014 | Issued / Granted |
| <u>16.</u> | Biodesix, Inc. | 13/741,634 | 1/15/2013 | 9,254,120 | 2/9/2016 | Issued / Granted |
| <u>17.</u> | Biodesix, Inc. | 13/836,436 | 3/15/2013 | 9,279,798 | 3/8/2016 | Issued / Granted |
| <u>18.</u> | Biodesix, Inc. | 14/868,575 | 9/29/2015 | 9,606,101 | 3/28/2017 | Issued / Granted |
| <u>19.</u> | Biodesix, Inc. | 13/835,909 | 3/15/2013 | 9,653,272 | 5/16/2017 | Issued / Granted |
| <u>20.</u> | Biodesix, Inc. | 15/584,275 | 5/2/2017 | 10,593,529 | 3/17/2020 | Issued / Granted |
| <u>21.</u> | Biodesix, Inc. | 13/733,018 | 1/2/2013 | 8,467,988 | 6/18/2013 | Issued / Granted |
| <u>22.</u> | Biodesix, Inc. | 14/486,442 | 9/15/2014 | 9,477,906 | 10/25/2016 | Issued / Granted |
| <u>23.</u> | Biodesix, Inc. | 14/460,769 | 8/15/2014 | 9,211,314 | 12/15/2015 | Issued / Granted |
| <u>24.</u> | Biodesix, Inc. | 14/869,348 | 9/29/2015 | 9,779,204 | 10/3/2017 | Issued / Granted |
| <u>25.</u> | Biodesix, Inc. | 15/701,668 | 9/12/2017 | 10,489,550 | 11/26/2019 | Issued / Granted |
| <u>26.</u> | Biodesix, Inc. | 14/949,229 | 11/23/2015 | 9,563,744 | 2/7/2017 | Issued / Granted |
| <u>27.</u> | Biodesix, Inc. | 14/936,847 | 11/10/2015 | 10,037,874 | 7/31/2018 | Issued / Granted |
| <u>28.</u> | Biodesix, Inc. | 16/020,183 | 6/27/2018 | 10,217,620 | 2/26/2019 | Issued / Granted |
| <u>29.</u> | Biodesix, Inc. | 15/899,866 | 2/20/2018 | | | Allowed |
| <u>30.</u> | Biodesix, Inc. | 15/091,417 | 4/5/2016 | 10,713,590 | 7/14/2020 | Issued / Granted |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>31.</u> | Biodesix, Inc. | 15/991,601 | 5/29/2018 | 10,950,348 | 3/16/2021 | Issued / Granted |
| <u>32.</u> | Biodesix, Inc. | 17/119,200 | 12/11/2020 | | 4/1/2021 (publication date) | Non-Provisional Filed |
| <u>33.</u> | Biodesix, Inc. | 16/070,603 | 7/17/2018 | | 1/17/2019 (publication date) | Published |
| <u>34.</u> | Biodesix, Inc. | 16/092,023 | 10/8/2018 | | 4/7/2022 (publication date) | Non-Provisional Filed |
| <u>35.</u> | Biodesix, Inc. | 16/475,752 | 7/3/2019 | 11,150,238 | 10/19/2021 | Issued / Granted |
| <u>36.</u> | Biodesix, Inc. | 17/495,213 | 10/6/2021 | | 1/27/2022 (publication date) | Non-Provisional Filed |
| <u>37.</u> | Biodesix, Inc. | 15/862,896 | 1/5/2018 | 10,870,891 | 12/22/2020 | Issued / Granted |
| <u>38.</u> | Biodesix, Inc. | 16/772,135 | 12/15/2018 | | 12/2/2021 (publication date) | Published |
| <u>39.</u> | Biodesix, Inc. | 17/031,042 | 9/24/2020 | | 4/22/2021 (publication date) | Non-Provisional Filed |
| <u>40.</u> | Biodesix, Inc. | 13/306,823 | 11/29/2011 | 9,403,889 | 8/2/2016 | Issued / Granted |
| <u>41.</u> | Biodesix, Inc. | 15/685,535 | 8/24/2017 | | 1/4/2018 | Published |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| | | | | | (publication date) | |
| <u>42.</u> | Biodesix, Inc. | 13/725,098 | 12/21/2012 | 9,091,651 | 7/28/2015 | Issued / Granted |
| <u>43.</u> | Biodesix, Inc. | 15/476,118 | 3/31/2017 | 10,534,002 | 1/14/2020 | Issued / Granted |
| <u>44.</u> | Biodesix, Inc. | 13/724,823 | 12/21/2012 | 9,201,044 | 12/1/2015 | Issued / Granted |
| <u>45.</u> | Biodesix, Inc. | 14/926,735 | 10/29/2015 | 9,588,127 | 3/7/2017 | Issued / Granted |
| <u>46.</u> | Biodesix, Inc. | 15/786,924 | 10/18/2017 | | 3/8/2018 (publication date) | Published |
| <u>47.</u> | Biodesix, Inc. | 13/775,494 | 2/23/2013 | 9,304,137 | 4/5/2016 | Issued / Granted |
| <u>48.</u> | Biodesix, Inc. | 15/051,153 | 2/23/2016 | 10,338,074 | 7/2/2019 | Issued / Granted |
| <u>49.</u> | Biodesix, Inc. | 17/470,462 | 9/9/2021 | | 6/2/2022 (publication date) | Non-Provisional Filed |
| <u>50.</u> | Biodesix, Inc. | 16/703027 | 12/4/2019 | 11,467,167 | 10/11/2022 | Issued / Granted |
| <u>51.</u> | Biodesix, Inc. | 14/341,245 | 7/25/2014 | 9,297,805 | 3/29/2016 | Issued / Granted |
| <u>52.</u> | Biodesix, Inc. | 15/680,656 | 8/18/2017 | 11,193,935 | 12/7/2021 | Issued / Granted |
| <u>53.</u> | Biodesix, Inc. | 14/612,959 | 2/3/2015 | 9,594,085 | 3/14/2017 | Issued / Granted |
| <u>54.</u> | Biodesix, Inc. | 15/587,767 | 5/5/2017 | 10,802,027 | 10/13/2020 | Issued / Granted |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>55.</u> | Biodesix, Inc. | 17/069,666 | 10/13/2020 | | 9/16/2021 (publication date) | Non-Provisional Filed |
| <u>56.</u> | Biodesix, Inc. | 11/342,366 | 1/27/2006 | 9,002,652 | 4/7/2015 | Issued / Granted |
| <u>57.</u> | Biodesix, Inc. | 13/570,096 | 8/8/2012 | 9,234,895 | 1/12/2016 | Issued / Granted |
| <u>58.</u> | Biodesix, Inc. | 13/023,366 | 2/8/2011 | 8,603,752 | 12/10/2013 | Issued / Granted |
| <u>59.</u> | Biodesix, Inc. | 14/100,301 | 12/9/2013 | 9,103,834 | 8/11/2015 | Issued / Granted |
| <u>60.</u> | Biodesix, Inc. | 12/376,951 | 6/30/2010 | 8586006 | 11/19/2013 | Issued / Granted |
| <u>61.</u> | Biodesix, Inc. | 17/430,998 | 8/13/2021 | | 10/27/2022 (publication date) | Non-Provisional Filed |
| <u>62.</u> | Biodesix, Inc. | 16/296,918 | 3/8/2019 | 10,422,729 | 9/24/2019 | Issued/Granted |
| <u>63.</u> | Biodesix, Inc. | 17/514,737 | 10/29/2021 | | | Allowed |
| <u>64.</u> | Biodesix, Inc. | 15/274,012 | 9/23/2016 | | 3/16/2017 | Abandoned |
| <u>65.</u> | Biodesix, Inc. | 17/344,352 | 6/10/2021 | 11,476,003 | 10/18/2022 | Non-Provisional Filed |
| <u>66.</u> | Biodesix, Inc. | 17/360,254 | 6/28/2021 | | 6/16/2022 (publication date) | Non-Provisional Filed |
| <u>67.</u> | Biodesix, Inc. | 17/902,055 | 9/2/2022 | | | Non-Provisional Filed |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Patent Application Number</u> | <u>Filing Date</u> | <u>Patent or Publication Number</u> | <u>Date of Issuance or Publication</u> | <u>Status</u> |
|------------|----------------|----------------------------------|--------------------|-------------------------------------|--|-----------------------|
| <u>68.</u> | Biodesix, Inc. | 63/150,050 | 2/16/2021 | | | Provisional Filed |
| <u>69.</u> | Biodesix, Inc. | 63/301,825 | 1/21/2022 | | | Provisional Filed |
| <u>70.</u> | Biodesix, Inc. | 63/304,107 | 1/28/2022 | | | Provisional Filed |
| <u>71.</u> | Biodesix, Inc. | 16/952,473 | 11/19/2020 | | 10/14/2021 (publication date) | Non-Provisional Filed |
| <u>72.</u> | Biodesix, Inc. | 15/207,825 | 07/12/2016 | 10,007,766 | 06/26/2018 | Issued/Granted |

Foreign Patents

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|------------------|
| 1. | Biodesix, Inc. | AT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 2. | Biodesix, Inc. | AU | 2007243644.0 | 3/26/2007 | 2007243644 | 9/2/2010 | Issued / Granted |
| 3. | Biodesix, Inc. | BE | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 4. | Biodesix, Inc. | CA | CA 2647871 | 3/26/2007 | 2647871 | 3/11/2014 | Issued / Granted |
| 5. | Biodesix, Inc. | DE | 602007044874.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 6. | Biodesix, Inc. | DE | 602007057736.5 | 3/26/2007 | 2241335 | 2/27/2019 | Issued / Granted |
| 7. | Biodesix, Inc. | DE | 10003343.0 | 3/26/2010 | 602007057736.5 | 2/27/2019 | Issued / Granted |

Schedules to Security Agreement

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|-----|----------------|----------------------|-----------------|-------------|---------------|------------|------------------|
| 8. | Biodesix, Inc. | FR | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 9. | Biodesix, Inc. | GB | 10003343.0 | 3/26/2010 | 2241335 | 2/27/2019 | Issued / Granted |
| 10. | Biodesix, Inc. | ES | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 11. | Biodesix, Inc. | FR | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 12. | Biodesix, Inc. | GB | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 13. | Biodesix, Inc. | HK | 09105283.6 | 3/26/2007 | HK1126416 | 3/26/2017 | Issued / Granted |
| 14. | Biodesix, Inc. | HK | 11110985.3 | 11/20/2009 | 1156696 | 1/4/2013 | Issued / Granted |
| 15. | Biodesix, Inc. | JP | 2009502923.0 | 3/26/2007 | 4963721 | 4/6/2012 | Issued / Granted |
| 16. | Biodesix, Inc. | PT | 07754043.3 | 3/26/2007 | 2007434 | 2/17/2016 | Issued / Granted |
| 17. | Biodesix, Inc. | AU | 2013281221.0 | 3/15/2013 | 2013281221 | 8/30/2018 | Issued / Granted |
| 18. | Biodesix, Inc. | CA | 2878441.0 | 3/15/2013 | 2,878,044 | 10/26/2021 | Issued / Granted |
| 19. | Biodesix, Inc. | CN | 201380043182.4, | 3/15/2013 | 104685360 | 2/13/2018 | Issued / Granted |
| 20. | Biodesix, Inc. | JP | 2015-520167 | 3/15/2013 | 6355630 | 6/22/2018 | Issued / Granted |
| 21. | Biodesix, Inc. | KR | 10-2015-7001998 | 3/15/2013 | 10-2103319 | 4/16/2020 | Issued / Granted |

Schedules to Security Agreement

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|-----|----------------|----------------------|----------------|-------------|------------------------------|------------|-----------------------|
| 22. | Biodesix, Inc. | MX | | | 365418 | 6/3/2019 | Issued / Granted |
| 23. | Biodesix, Inc. | SG | 112014086525, | 3/15/2013 | 11201408652S | 5/18/2018 | Issued / Granted |
| 24. | Biodesix, Inc. | TW | 102115975.0 | 5/3/2013 | I639001 | 10/21/2018 | Issued / Granted |
| 25. | Biodesix, Inc. | TW | 112014086525, | 3/15/2013 | | | Issued / Granted |
| 26. | Biodesix, Inc. | AU | 2014318499 | 9/15/2014 | 2014318499 | 9/28/2019 | Issued / Granted |
| 27. | Biodesix, Inc. | DE | 15846544.3 | 9/29/2015 | 3201812/60 2015 065 776.4 | 2/17/2021 | Issued / Granted |
| 28. | Biodesix, Inc. | FR | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 29. | Biodesix, Inc. | GB | 15846544.3 | 9/29/2015 | 3201812 | 2/17/2021 | Issued / Granted |
| 30. | Biodesix, Inc. | BE | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 31. | Biodesix, Inc. | CH | 16825024.9 | 07/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 32. | Biodesix, Inc. | CN | 201680052342.5 | 7/12/2016 | ZL201680052342 | | Pending / Published |
| 33. | Biodesix, Inc. | CN | 202011108535.2 | 10/16/2020 | | | Non-Provisional Filed |
| 34. | Biodesix, Inc. | DE | 16825024.9 | 7/12/2016 | 60 2016 063 521.6/3322987 | 9/8/2021 | Non-Provisional Filed |
| 35. | Biodesix, Inc. | EP | 20198389.7 | 9/25/2020 | | | Issued / Granted |

Schedules to Security Agreement

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|-----|----------------|----------------------|----------------|-------------|-------------------|------------|-------------------|
| 36. | Biodesix, Inc. | FR | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 37. | Biodesix, Inc. | IE | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 38. | Biodesix, Inc. | LU | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 39. | Biodesix, Inc. | UK | 16825024.9 | 7/12/2016 | 3322987 | 9/8/2021 | Issued / Granted |
| 40. | Biodesix, Inc. | CN | 201880015865.1 | 7/11/2019 | | | Pending/Published |
| 41. | Biodesix, Inc. | EP | 18736676.0 | 7/11/2019 | | | Pending/Published |
| 42. | Biodesix, Inc. | CH | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 43. | Biodesix, Inc. | DE | 18150429.1 | 1/5/2018 | 60 2018 017 131.2 | 5/19/2021 | Issued / Granted |
| 44. | Biodesix, Inc. | FR | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 45. | Biodesix, Inc. | UK | 18150429.1 | 1/5/2018 | 3358020 | 5/19/2021 | Issued / Granted |
| 46. | Biodesix, Inc. | CN | 201980022391.8 | 9/25/2020 | | | Pending/Published |
| 47. | Biodesix, Inc. | EP | 19775503.6 | 9/10/2020 | | | Pending/Published |
| 48. | Biodesix, Inc. | CN | 201880081583.1 | 6/17/2020 | | | Issued / Granted |
| 49. | Biodesix, Inc. | EP | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |

Schedules to Security Agreement

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|-----|----------------|----------------------|----------------|-------------|---------------|------------|-----------------------|
| 50. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 51. | Biodesix, Inc. | HK | 15103606.3 | 12/21/2012 | 1203091 | 6/15/2018 | Issued / Granted |
| 52. | Biodesix, Inc. | HK | 62021029447.1 | 4/16/2021 | | | Non-Provisional Filed |
| 53. | Biodesix, Inc. | IE | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 54. | Biodesix, Inc. | IL | 233291.0 | 12/21/2012 | 233291 | 5/29/2018 | Issued / Granted |
| 55. | Biodesix, Inc. | IL | 257330.0 | 12/21/2012 | 257330 | 1/3/2021 | Issued / Granted |
| 56. | Biodesix, Inc. | JP | 2014-548967 | 12/21/2012 | 6,082,026 | 1/27/2017 | Issued / Granted |
| 57. | Biodesix, Inc. | LU | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 58. | Biodesix, Inc. | NL | 12810019.5 | 12/21/2012 | 2,795,330 | 7/19/2017 | Issued / Granted |
| 59. | Biodesix, Inc. | EP | 18868355.1 | 5/18/2020 | | | Examination Year 1 |
| 60. | Biodesix, Inc. | CN | 201480052775.1 | 7/25/2014 | | | Issued / Granted |
| 61. | Biodesix, Inc. | HK | 17100661.9 | 7/25/2014 | HK1227103 | 8/7/2020 | Issued / Granted |
| 62. | Biodesix, Inc. | CN | 201780041871.X | 1/5/2019 | | | Published |
| 63. | Biodesix, Inc. | HK | 40012915A | 1/5/2019 | | | Published |

Schedules to Security Agreement

| # | Obligor | Country/Jurisdiction | Serial No. | Filing Date | Patent Number | Issue Date | Status |
|-----|----------------|----------------------|----------------|-------------|-------------------|------------|-----------------------|
| 64. | Biodesix, Inc. | CN | 202080014537.7 | 8/13/2021 | | | Pending/Published |
| 65. | Biodesix, Inc. | EP | 20754917.1 | 6/24/2021 | | | Pending/Published |
| 66. | Biodesix, Inc. | HK | 62022048051.6 | 2/14/2022 | | | Pending/Published |
| 67. | Biodesix, Inc. | BE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 68. | Biodesix, Inc. | CH | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 69. | Biodesix, Inc. | CN | 202010085720.8 | 2/18/2020 | ZL 202010085720.8 | 6/22/2021 | Issued / Granted |
| 70. | Biodesix, Inc. | DE | 20158033.9 | 2/18/2020 | 60 2020 001 052.1 | 11/24/2021 | Issued / Granted |
| 71. | Biodesix, Inc. | ES | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 72. | Biodesix, Inc. | FR | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 73. | Biodesix, Inc. | GB | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 74. | Biodesix, Inc. | HK | 202010085720.8 | 2/18/2020 | | | Non-Provisional Filed |
| 75. | Biodesix, Inc. | IT | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 76. | Biodesix, Inc. | LI | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 77. | Biodesix, Inc. | NL | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |

Schedules to Security Agreement

| <u>#</u> | <u>Obligor</u> | <u>Country/Jurisdiction</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Patent Number</u> | <u>Issue Date</u> | <u>Status</u> |
|----------|----------------|-----------------------------|-------------------|--------------------|----------------------|-------------------|-------------------|
| 78. | Biodesix, Inc. | SE | 20158033.9 | 2/18/2020 | 3705042 | 11/24/2021 | Issued / Granted |
| 79. | Biodesix, Inc. | PCT | PCT/US2021/063560 | 12/15/2021 | | | Pending/Published |
| 80. | Biodesix, Inc. | PCT | PCT/US22/16307 | 2/14/2022 | | | Provisional Filed |

Schedules to Security Agreement

SCHEDULE 6

Trade Names, Trademarks, Services Marks, Trademark and Service Mark Registrations and Applications for Trademark and Service Mark Registrations

US Trademarks:

| <u>#</u> | <u>Obligor</u> | <u>Trademarks</u> | <u>Application Number</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> | <u>Registration Date</u> |
|----------|----------------|----------------------|---------------------------|--------------------|---------------|-------------------------|--------------------------|
| 1. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87586059 | 8/28/2017 | Registered | 5548759 | 8/28/2018 |
| 2. | Biodesix, Inc. | BIODESIX LUNG REFLEX | 87/422,891 | 4/24/2017 | Registered | 5363516 | 12/26/2017 |
| 3. | Biodesix, Inc. | BIODESIX | 77141889 | 3/27/2007 | Registered | 3483094 | 08/12/2008 |
| 4. | Biodesix, Inc. | DEEP MALDI | 85/853,947 | 2/19/2013 | Registered | 4660213 | 12/23/2014 |
| 5. | Biodesix, Inc. | DIAGNOSTIC CORTEX | 86/525907 | 2/5/2015 | Registered | 5087240 | 11/22/2016 |
| 6. | Biodesix, Inc. | EARLYCDT-LUNG | 88483638 | 6/21/2019 | Registered | 5965603 | 1/21/2020 |
| 7. | Biodesix, Inc. | EARLYCDT-LUNG | 88483651 | 6/21/2019 | Registered | 5965605 | 1/21/2020 |
| 8. | Biodesix, Inc. | GENESTRAT | 86/618561 | 5/4/2015 | Registered | 5042185 | 9/13/2016 |
| 9. | Biodesix, Inc. | GENESTRAT | 97/036444 | 9/20/2021 | Filed | | |
| 10. | Biodesix, Inc. | GENESTRAT NGS | 97/036428 | 9/20/2021 | Filed | | |
| 11. | Biodesix, Inc. | IMMUNOSTRAT | 86/588401 | 4/6/2015 | Registered | 5670693 | 2/5/2019 |
| 12. | Biodesix, Inc. | INDI | 86595979 | 4/13/2015 | Registered | 4966111 | 5/24/2016 |

Schedules to Security Agreement

| # | Obligor | Trademarks | Application Number | Filing Date | Status | Registration No. | Registration Date |
|-----|----------------|---------------------------------|--------------------|-------------|--------------------|------------------|-------------------|
| 13. | Biodesix, Inc. | IQLUNG | 97119106 | 11/10/2021 | Filed | | |
| 14. | Biodesix, Inc. | IQLUNG + Black and White Design | 97122430 | 11/12/2021 | Filed | | |
| 15. | Biodesix, Inc. | IQLUNG + Color Design | 97137988 | 11/22/2021 | Filed | | |
| 16. | Biodesix, Inc. | NODIFY | 88/329,645 | 3/7/2019 | Registered | 6137189 | 8/25/2020 |
| 17. | Biodesix, Inc. | NODIFY CDT | 88/819,075 | 3/3/2020 | Registered | 6,456,820 | 8/17/2021 |
| 18. | Biodesix, Inc. | NODIFY LUNG | 88/819033 | 3/3/2020 | Registered | 6349475 | 5/11/2021 |
| 19. | Biodesix, Inc. | NODIFY XL2 | 88/329,661 | 3/7/2019 | Registered | 6142799 | 9/1/2020 |
| 20. | Biodesix, Inc. | VERISTRAT | 77141838 | 3/27/2007 | Registered | 3470295 | 7/22/2008 |
| 21. | Biodesix, Inc. | VERISTRAT | 97/036452 | 9/20/2021 | Filed | | |
| 22. | Biodesix, Inc. | XPRESYS | 88614360 | 9/12/2019 | Allowed - deferred | | |

Foreign Trademarks

| # | Owner | Trademarks | Country | Filing Date | Status | Registration No. |
|----|----------------|------------|----------------|-------------|------------|------------------|
| 1. | Biodesix, Inc. | BIODESIX | Australia | 12/8/2011 | Registered | 1464427 |
| 2. | Biodesix, Inc. | BIODESIX | European Union | 12/13/2011 | Registered | 10487759 |
| 3. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329104 |
| 4. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329099 |

Schedules to Security Agreement

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|----------------------------------|----------------|--------------------|---------------|-------------------------|
| 5. | Biodesix, Inc. | BIODESIX | China | 12/20/2011 | Registered | 10329103 |
| 6. | Biodesix, Inc. | BIODESIX | Japan | 12/8/2011 | Registered | 5507711 |
| 7. | Biodesix, Inc. | BIODESIX | Korea | 12/9/2011 | Registered | 45-0045710 |
| 8. | Biodesix, Inc. | BIODESIX | Israel | 12/8/2011 | Registered | 242697 |
| 9. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829649 |
| 10. | Biodesix, Inc. | BIODESIX | Mexico | 9/5/2017 | Registered | 1829648 |
| 11. | Biodesix, Inc. | BIODESIX | Taiwan | 12/12/2011 | Registered | 1582583 |
| 12. | Biodesix, Inc. | BIODESIX | United Kingdom | 12/13/2011 | Registered | UK00910487759 |
| 13. | Biodesix, Inc. | BIODESIX | Canada | 1/18/2012 | Registered | TMA894619 |
| 14. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714233 |
| 15. | Biodesix, Inc. | BIODESIX LUNG REFLEX | China | 5/7/2018 | Registered | 30714234 |
| 16. | Biodesix, Inc. | GENESTRAT | China | 5/2/2018 | Registered | 30620137 |
| 17. | Biodesix, Inc. | GENESTRAT | European Union | 9/12/2016 | Registered | 15821473 |
| 18. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829651 |
| 19. | Biodesix, Inc. | GENESTRAT | Mexico | 9/11/2017 | Registered | 1829650 |
| 20. | Biodesix, Inc. | GENESTRAT | United Kingdom | 9/12/2016 | Registered | UK00915821473 |
| 21. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | China | 7/30/2013 | Registered | 1174299 |

Schedules to Security Agreement

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|----------------------------------|----------------|--------------------|---------------|-------------------------|
| 22. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | European Union | 7/30/2013 | Registered | 1174299 |
| 23. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | WIPO | 7/30/2013 | Registered | 1174299 |
| 24. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | Japan | 7/30/2013 | Registered | 1174299 |
| 25. | Biodesix, Inc. | GRID OF INDIVIDUAL SQUARES (B&W) | United Kingdom | 7/30/2013 | Registered | UK00801174299 |
| 26. | Biodesix, Inc. | INDI & Design | China | 7/30/2013 | Registered | 1174378 |
| 27. | Biodesix, Inc. | INDI & Design | European Union | 7/30/2013 | Registered | 1174378 |
| 28. | Biodesix, Inc. | INDI & Design | WIPO | 7/30/2013 | Registered | 1174378 |
| 29. | Biodesix, Inc. | INDI & Design | Japan | 7/30/2013 | Registered | 1104760 |
| 30. | Biodesix, Inc. | INDI & Design | United Kingdom | 7/30/2013 | Registered | UK00801174378 |
| 31. | Biodesix, Inc. | INDI DX | European Union | 11/13/2012 | Registered | 1149372 |
| 32. | Biodesix, Inc. | INDI DX | UK | 11/13/2012 | Registered | UK00801149372 |
| 33. | Biodesix, Inc. | INDI DX | WIPO | 11/13/2012 | Registered | 1149372 |
| 34. | Biodesix, Inc. | VERISTRAT | European Union | 12/13/2011 | Registered | 10487809 |
| 35. | Biodesix, Inc. | VERISTRAT | United Kingdom | 12/13/2011 | Registered | UK00910487809 |
| 36. | Biodesix, Inc. | VERISTRAT | Australia | 12/8/2011 | Registered | 1464428 |
| 37. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329101 |
| 38. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329102 |

Schedules to Security Agreement

| <u>#</u> | <u>Owner</u> | <u>Trademarks</u> | <u>Country</u> | <u>Filing Date</u> | <u>Status</u> | <u>Registration No.</u> |
|----------|----------------|-------------------|----------------|--------------------|---------------|-------------------------|
| 39. | Biodesix, Inc. | VERISTRAT | China | 12/20/2011 | Registered | 10329100 |
| 40. | Biodesix, Inc. | VERISTRAT | China | 11/5/2012 | Registered | 11694401 |
| 41. | Biodesix, Inc. | VERISTRAT | Japan | 12/8/2011 | Registered | 5507712 |
| 42. | Biodesix, Inc. | VERISTRAT | India | 4/27/2017 | Registered | 3535601 |
| 43. | Biodesix, Inc. | VERISTRAT | Israel | 12/8/2011 | Registered | 242696 |
| 44. | Biodesix, Inc. | VERISTRAT | Taiwan | 12/12/2011 | Registered | 1582584 |
| 45. | Biodesix, Inc. | VERISTRAT | Korea | 12/9/2011 | Registered | 45-0045709 |
| 46. | Biodesix, Inc. | VERISTRAT | Canada | 1/18/2012 | Registered | TMA894617 |
| 47. | Biodesix, Inc. | XPRESYS | Canada | 6/10/2013 | Registered | TMA1023166 |
| 48. | Biodesix, Inc. | XPRESYS | China | 5/21/2013 | Registered | 1164302 |
| 49. | Biodesix, Inc. | XPRESYS | European Union | 5/21/2013 | Registered | 1164302 |
| 50. | Biodesix, Inc. | XPRESYS | WIPO | 5/21/2013 | Registered | 1164302 |
| 51. | Biodesix, Inc. | XPRESYS | Japan | 5/21/2013 | Registered | 1164302 |
| 52. | Biodesix, Inc. | XPRESYS | United Kingdom | 5/21/2013 | Registered | UK00801164302 |

Schedules to Security Agreement

SCHEDULE 7

Deposit Accounts, Securities Accounts and Commodity Accounts

| <u>Obligor</u> | <u>Type of Account</u> | <u>Name & Address of Financial Institutions</u> |
|----------------|--------------------------|---|
| Biodesix, Inc. | Lockbox x72933 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Restricted Cash x55100 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account x93903 | JPMorgan Chase Bank, N.A. |
| Biodesix, Inc. | Operating Account x3298 | Silicon Valley Bank |
| Biodesix, Inc. | Collateral MMA | Silicon Valley Bank |

Schedules to Security Agreement

SCHEDULE 8

Commercial Tort Claims

None.

Schedules to Security Agreement

SUBSCRIPTION AGREEMENT

This SUBSCRIPTION AGREEMENT (this “**Subscription Agreement**”) is entered into this 21st day of November, 2022, by and between Biodesix, Inc., a Delaware corporation (the “**Issuer**”), and the undersigned (“**Subscriber**” or “**you**”).

WHEREAS, Subscriber desires to subscribe for and purchase from the Issuer that number of shares of the Issuer’s common stock, \$0.001 par value per share (the “**Common Stock**”) set forth on the signature page hereto (the “**Subscribed Shares**”) for a purchase price of \$1.15 per share, and for the aggregate purchase price set forth on the signature page hereto (the “**Purchase Price**”), and the Issuer desires to issue and sell to Subscriber the Subscribed Shares in consideration of the payment of the Purchase Price therefor by or on behalf of Subscriber to the Issuer, all on the terms and subject to the conditions set forth herein; and

WHEREAS, certain other “qualified institutional buyers” (as defined in Rule 144A under the Securities Act of 1933, as amended (the “**Securities Act**”) or “accredited investors” (within the meaning of Rule 501(a) under the Securities Act) (each, an “**Other Subscriber**”) have, severally and not jointly, entered into separate subscription agreements with the Issuer (the “**Other Subscription Agreements**”), pursuant to which such Other Subscribers have agreed to purchase Common Stock on the Closing Date (as defined below) at the same per share purchase price as Subscriber, and the aggregate amount of securities to be sold by the Issuer pursuant to this Subscription Agreement and the Other Subscription Agreements equals, as of the date hereof, 278,514 shares of Common Stock.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties and covenants, and subject to the conditions, herein contained, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

For ease of administration, this single Subscription Agreement is being executed so as to enable each Subscriber identified on the signature page to enter into a Subscription Agreement, severally, but not jointly. The parties agree that (i) this Subscription Agreement shall be treated as if it were a separate agreement with respect to each Subscriber listed on the signature page, as if each Subscriber entity had executed a separate Subscription Agreement naming only itself as Subscriber, and (ii) no Subscriber listed on the signature page shall have any liability under the Subscription Agreement for the obligations of any Other Subscriber so listed. The decision of Subscriber to purchase the Subscribed Shares pursuant to this Subscription Agreement has been made by Subscriber independently of any Other Subscriber or any other investor and independently of any information, materials, statements or opinions as to the business, affairs, operations, assets, properties, liabilities, results of operations, condition (financial or otherwise) or prospects of the Issuer which may have been made or given by any Other Subscriber or investor or by any agent or employee of any Other Subscriber or investor, and neither Subscriber nor any of its agents or employees shall have any liability to any Other Subscriber or investor (or any other person) relating to or arising from any such information, materials, statements or opinions. Nothing contained herein or in any Other Subscription Agreement, and no action taken by Subscriber or investor pursuant hereto or thereto, shall be deemed to constitute Subscriber and Other Subscribers or other investors as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that Subscriber and Other Subscribers or other investors

are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Subscription Agreement and the Other Subscription Agreements. Subscriber acknowledges that no Other Subscriber has acted as agent for Subscriber in connection with making its investment hereunder and no Other Subscriber will be acting as agent of Subscriber in connection with monitoring its investment in the Subscribed Shares or enforcing its rights under this Subscription Agreement. Subscriber shall be entitled to independently protect and enforce its rights, including without limitation the rights arising out of this Subscription Agreement, and it shall not be necessary for any Other Subscriber or investor to be joined as an additional party in any proceeding for such purpose.

1. Subscription. Subject to the terms and conditions hereof, at the Closing (as defined below), Subscriber hereby agrees, to subscribe for and purchase, and the Issuer hereby agrees to issue and sell to Subscriber, upon the payment of the Purchase Price, the Subscribed Shares (such subscription and issuance, the “**Subscription**”).

2. Representations, Warranties and Agreements.

2.1. Subscriber’s Representations, Warranties and Agreements. To induce the Issuer to issue the Subscribed Shares, Subscriber hereby represents and warrants to the Issuer and acknowledges and agrees with the Issuer, as of the date hereof and as of the Closing Date, as follows:

2.1.1. If Subscriber is not an individual, Subscriber has been duly formed or incorporated and is validly existing in good standing under the laws of its jurisdiction of incorporation or formation, with power and authority to enter into, deliver and perform its obligations under this Subscription Agreement. If Subscriber is an individual, Subscriber has the capacity to enter into, deliver and perform its obligations under this Subscription Agreement.

2.1.2. If Subscriber is not an individual, this Subscription Agreement has been duly authorized, validly executed and delivered by Subscriber. If Subscriber is an individual, the signature on this Subscription Agreement is genuine, and Subscriber has legal competence and capacity to execute the same. Assuming that this Subscription Agreement constitutes the valid and binding agreement of the Issuer, this Subscription Agreement is the valid and binding obligation of Subscriber, and is enforceable against Subscriber in accordance with its terms, except as may be limited or otherwise affected by (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws relating to or affecting the rights of creditors generally, and (ii) principles of equity, whether considered at law or equity.

2.1.3. The execution, delivery and performance by Subscriber of this Subscription Agreement and the consummation of the transactions contemplated herein do not and will not (i) if Subscriber is not an individual, result in any violation of the provisions of the organizational documents of Subscriber or any of its subsidiaries or (ii) result in any violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body, domestic or foreign, having jurisdiction over Subscriber that would reasonably be expected to have a material adverse effect on the

legal authority and ability of Subscriber to enter into and timely perform its obligations under this Subscription Agreement (a “**Subscriber Material Adverse Effect**”).

2.1.4. Subscriber is (i) (a) a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act) or an “accredited investor” within the meaning of Rule 501(a) under the Securities Act, (b) an Institutional Account as defined in FINRA Rule 4512(c) or (c) a sophisticated institutional investor, experienced in investing in transactions of the type contemplated by this Subscription Agreement and capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities, including Subscriber’s participation in the purchase of the Subscribed Shares, in each case, satisfying the applicable requirements set forth on Schedule I, (ii) acquiring the Subscribed Shares only for its own account and not for the account of others, or if Subscriber is subscribing for the Subscribed Shares as a fiduciary or agent for one or more investor accounts, each owner of such account is a qualified institutional buyer, and Subscriber has full investment discretion with respect to each such account, and the full power and authority to make the acknowledgements, representations, warranties and agreements herein on behalf of each owner of each such account, for investment purposes only and not with a view to any distribution of the Subscribed Shares in any manner that would violate the securities laws of the United States or any other applicable jurisdiction and (iii) not acquiring the Subscribed Shares with a view to, or for offer or sale in connection with, any distribution thereof in violation of the Securities Act (and shall provide the requested information on Schedule I following the signature page hereto). Subscriber is not an entity formed for the specific purpose of acquiring the Subscribed Shares.

2.1.5. Subscriber understands that the Subscribed Shares are being offered in a transaction not involving any public offering within the meaning of the Securities Act and that the Subscribed Shares have not been registered under the Securities Act. Subscriber understands that the Subscribed Shares may not be resold, transferred, pledged or otherwise disposed of by Subscriber absent an effective registration statement under the Securities Act, except (i) to the Issuer or a subsidiary thereof, (ii) to non-U.S. persons pursuant to offers and sales that occur solely outside the United States within the meaning of Regulation S under the Securities Act or (iii) pursuant to another applicable exemption from the registration requirements of the Securities Act, and in each of cases (i) and (iii), in accordance with any applicable securities laws of the states and other jurisdictions of the United States, and that the Subscribed Shares shall be subject to a legend to such effect (provided that such legends will be eligible for removal upon delivery of an opinion of counsel by Subscriber, in form reasonably satisfactory to the transfer agent of the Issuer, to the effect that such legends are not required in order to establish compliance with any provisions of the Securities Act). Subscriber acknowledges that the Subscribed Shares will not be eligible for resale pursuant to Rule 144A promulgated under the Securities Act. Subscriber understands and agrees that the Subscribed Shares will be subject to the foregoing restrictions and, as a result, Subscriber may not be able to readily resell the Subscribed Shares and may be required to bear the financial risk of an investment in the Subscribed Shares for an indefinite period of time. Subscriber understands that it has been advised to consult

independent legal counsel prior to making any offer, resale, pledge or transfer of any of the Subscribed Shares. Subscriber has determined based on its own independent review and such professional advice as it deems appropriate that the Subscribed Shares are a suitable investment for Subscriber, notwithstanding the substantial risks inherent in investing in or holding the Subscribed Shares, and that Subscriber is able at this time and in the foreseeable future to bear the economic risk of a total loss of Subscriber's investment in the Issuer. Subscriber acknowledges specifically that a possibility of total loss exists.

2.1.6. Subscriber understands and agrees that Subscriber is purchasing the Subscribed Shares directly from the Issuer. Subscriber further acknowledges that there have been no representations, warranties, covenants or agreements made to Subscriber by the Issuer or any of its officers or directors, expressly or by implication, other than those representations, warranties, covenants and agreements expressly set forth in this Subscription Agreement.

2.1.7. If Subscriber is an employee benefit plan that is subject to Title I of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), Subscriber represents and warrants that its acquisition and holding of the Subscribed Shares will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA, Section 4975 of the Internal Revenue Code of 1986, as amended (the "**Code**"), or any applicable other federal, state, local, non-U.S. or other laws or regulations that are similar to such provisions of ERISA or the Code (collectively, "**Similar Laws**").

2.1.8. In making its decision to purchase the Subscribed Shares, Subscriber represents that it has relied solely upon independent investigation made by Subscriber and the representations, warranties and covenants of the Issuer contained in this Subscription Agreement. Without limiting the generality of the foregoing, Subscriber has not relied on any statements or other information provided by anyone other than the Issuer and its representatives concerning the Issuer or the Subscribed Shares or the offer and sale of the Subscribed Shares. Subscriber acknowledges and agrees that Subscriber has received access to and has had an adequate opportunity to review such information as Subscriber deems necessary in order to make an investment decision with respect to the Subscribed Shares, including with respect to the Issuer. Subscriber represents and agrees that Subscriber and Subscriber's professional advisor(s), if any, have had the full opportunity to ask such questions, receive such answers and obtain such information as Subscriber and such Subscriber's professional advisor(s), if any, have deemed necessary to make an investment decision with respect to the Subscribed Shares. Subscriber represents and warrants it is relying exclusively on its own sources of information, investment analysis and due diligence (including professional advice you deem appropriate) with respect to the Subscribed Shares and the business, condition (financial and otherwise), management, operations, properties and prospects of the Issuer, including but not limited to all business, legal, regulatory, accounting, credit and tax matters.

2.1.9. Subscriber became aware of this offering of the Subscribed Shares solely by means of direct contact between Subscriber and the Issuer or one of their

respective representatives. Subscriber did not become aware of this offering of the Subscribed Shares, nor were the Subscribed Shares offered to Subscriber, by any general solicitation. Subscriber acknowledges that the Issuer represents and warrants that the Subscribed Shares were not offered by any form of general solicitation or general advertising, including methods described in section 502(c) of Regulation D under the Securities Act.

2.1.10. Subscriber understands and agrees that no federal or state agency has passed upon or endorsed the merits of the offering of the Subscribed Shares or made any findings or determination as to the fairness of an investment in the Subscribed Shares.

2.1.11. Subscriber represents and warrants that Subscriber is not (i) a person or entity named on the List of Specially Designated Nationals and Blocked Persons administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") or in any Executive Order issued by the President of the United States and administered by OFAC ("**OFAC List**"), or a person or entity prohibited by any OFAC sanctions program, (ii) a Designated National as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515 or (iii) a non-U.S. shell bank or providing banking services indirectly to a non-U.S. shell bank. Subscriber agrees to provide law enforcement agencies, if requested thereby, such records as required by applicable law, provided that Subscriber is permitted to do so under applicable law. If Subscriber is a financial institution subject to the Bank Secrecy Act (31 U.S.C. Section 5311 et seq.), as amended by the USA PATRIOT Act of 2001, and its implementing regulations (collectively, the "**BSA/PATRIOT Act**"), Subscriber represents that it maintains policies and procedures reasonably designed to comply with applicable obligations under the BSA/PATRIOT Act. Subscriber also represents that, to the extent required, it maintains policies and procedures reasonably designed for the screening of its investors against the OFAC sanctions programs, including the OFAC List. Subscriber further represents and warrants that, to the extent required, it maintains policies and procedures reasonably designed to ensure that the funds held by Subscriber and used to purchase the Subscribed Shares were legally derived.

2.1.12. If Subscriber is an employee benefit plan that is subject to Title I of ERISA, a plan, an individual retirement account or other arrangement that is subject to section 4975 of the Code or an employee benefit plan that is a governmental plan (as defined in section 3(32) of ERISA), a church plan (as defined in section 3(33) of ERISA), a non-U.S. plan (as described in section 4(b)(4) of ERISA) or other plan that is not subject to the foregoing but may be subject to provisions under any other Similar Laws or an entity whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement (each, a "**Plan**"), Subscriber represents and warrants that neither the Issuer nor any of its affiliates (the "**Transaction Parties**") has acted as the Plan's fiduciary, or has been relied on for advice, with respect to its decision to acquire and hold the Subscribed Shares, and none of the Transaction Parties shall at any time be relied upon as the Plan's fiduciary with respect to any decision to acquire, continue to hold or transfer the Subscribed Shares.

2.1.13. Except as expressly disclosed in a Schedule 13D or Schedule 13G (or amendments thereto) filed by such Subscriber with the United States Securities and Exchange Commission (the “**Commission**”) with respect to the beneficial ownership of the Issuer’s securities, Subscriber is not currently (and at all times through Closing will refrain from being or becoming) a member of a “group” (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), or any successor provision) acting for the purpose of acquiring, holding or disposing of equity securities of the Issuer (within the meaning of Rule 13d-5(b)(1) under the Exchange Act).

2.1.14. Subscriber is not a foreign person (as defined in 31 C.F.R. Part 800.224) in which the national or subnational governments of a single foreign state have a substantial interest (as defined in 31 C.F.R. Part 800.244) and that will acquire a substantial interest in the Issuer as a result of the purchase and sale of Subscribed Shares hereunder such that a declaration to the Committee on Foreign Investment in the United States would be mandatory under 31 C.F.R. Part 800.401, and no foreign person will have control (as defined in 31 C.F.R. Part 800.208) over the Issuer from and after the Closing as a result of the purchase and sale of the Subscribed Shares hereunder.

2.1.15. On each date the Purchase Price would be required to be funded to the Issuer pursuant to Section 3.1, Subscriber will have sufficient immediately available funds to pay the Purchase Price pursuant to Section 3.1.

2.1.16. No broker, finder or other financial consultant has acted on behalf of Subscriber in connection with this Subscription Agreement or the transactions contemplated hereby in such a way as to create any liability on the Issuer.

2.1.17. Subscriber agrees that, from the date of this Subscription Agreement until the Closing or the earlier termination of this Subscription Agreement, none of Subscriber, its controlled affiliates, or any person or entity acting on behalf of Subscriber or any of its controlled affiliates or pursuant to any understanding with Subscriber or any of its controlled affiliates will engage in any Short Sales with respect to securities of the Issuer. For the purposes hereof, “**Short Sales**” shall include, without limitation, all “short sales” as defined in Rule 200 promulgated under Regulation SHO under the Exchange Act, and all types of direct and indirect stock pledges (other than pledges in the ordinary course of business as part of prime brokerage arrangements), forward sale contracts, options, puts, calls, swaps and similar arrangements (including on a total return basis), including through non-U.S. broker dealers or foreign regulated brokers.

2.2. Issuer’s Representations, Warranties and Agreements. To induce Subscriber to purchase the Subscribed Shares, the Issuer hereby represents and warrants to Subscriber and agrees with Subscriber, as of the date hereof and as of the Closing Date, as follows:

2.2.1. The Issuer has been duly incorporated, is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation, has

the corporate power and authority to own or lease its property and to conduct its business under this Subscription Agreement.

2.2.2. The Subscribed Shares will be duly authorized and, when issued and delivered to Subscriber against full payment for the Subscribed Shares, will be free and clear of any liens or other restrictions (other than arising under applicable securities laws) in accordance with the terms of this Subscription Agreement and registered with the Issuer's transfer agent, the Subscribed Shares will be validly issued, fully paid and non-assessable and will not have been issued in violation of or subject to any preemptive or similar rights under the Issuer's constitutive agreements or applicable law.

2.2.3. This Subscription Agreement has been duly authorized, validly executed and delivered by the Issuer and, assuming that this Subscription Agreement constitutes the valid and binding obligation of Subscriber, is the valid and binding obligation of the Issuer, and is enforceable against Issuer in accordance with its terms, except as may be limited or otherwise affected by (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws relating to or affecting the rights of creditors generally and (ii) principles of equity, whether considered at law or equity.

2.2.4. The execution, delivery and performance of this Subscription Agreement (including compliance by the Issuer with all of the provisions hereof), the issuance and sale of the Subscribed Shares and the consummation of the other transactions contemplated herein, will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the property or assets of the Issuer or any of its subsidiaries pursuant to the terms of any indenture, mortgage, charge, deed of trust, loan agreement, lease, license or other agreement or instrument to which the Issuer or any of its subsidiaries is a party or by which the Issuer or any of its subsidiaries is bound or to which any of the property or assets of the Issuer or any of its subsidiaries is subject, which would reasonably be expected to have a material adverse effect on the business, properties, financial condition, stockholders' equity or results of operations of the Issuer, taken as a whole or materially and adversely affects the ability of the Issuer to timely perform its obligations under this Subscription Agreement (an "**Issuer Material Adverse Effect**"), (ii) result in any material violation of the provisions of the organizational documents of the Issuer or any of its subsidiaries or (iii) result in any violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body, domestic or foreign, having jurisdiction over the Issuer or any of its subsidiaries or any of its properties that would reasonably be expected to have an Issuer Material Adverse Effect.

2.2.5. Neither the Issuer, nor any person acting on its behalf has, directly or indirectly, made any offers or sales of any security of the Issuer nor solicited any offers to buy any security under circumstances that would adversely affect reliance by the Issuer on Section 4(a)(2) of the Securities Act for the exemption from registration for the transactions contemplated hereby or would require registration of the issuance of the Subscribed Shares under the Securities Act.

2.2.6. Neither the Issuer, nor any person acting on its behalf has conducted any general solicitation or general advertising, including methods described in section 502(c) of Regulation D under the Securities Act, in connection with the offer or sale of any of the Subscribed Shares and neither the Issuer, nor any person acting on its behalf has offered any of the Subscribed Shares in a manner involving a public offering under, or in a distribution in violation of, the Securities Act or any state securities laws.

2.2.7. Concurrently with the execution and delivery of this Subscription Agreement, the Issuer is entering into the Other Subscription Agreements providing for the sale of an aggregate of 278,514 shares of Common Stock for an aggregate purchase price of \$320,291.10 (including the Subscribed Shares purchased and sold under this Subscription Agreement).

2.2.8. As of the date of this Subscription Agreement, the authorized share capital of the Issuer consists of 200,000,000 shares of Common Stock and 5,000,000 shares of preferred stock, \$0.001 par value per share (the "**Preferred Stock**"). The shares of Common Stock outstanding have been duly authorized and are validly issued, fully paid and non-assessable. There are no shareholder agreements, voting trusts or other agreements or understandings to which the Issuer is a party or by which it is bound relating to the voting of any securities of the Issuer. There are no securities or instruments issued by or to which the Issuer is a party containing anti-dilution or similar provisions that will be triggered by the issuance of (i) the Subscribed Shares or (ii) the shares to be issued pursuant to any Other Subscription Agreement that have not been or will not be validly waived on or prior to the Closing.

2.2.9. Assuming the accuracy of Subscriber's representations and warranties set forth in Section 2.1 of this Subscription Agreement, (i) no registration under the Securities Act is required for the offer and sale of the Subscribed Shares by the Issuer to Subscriber and (ii) no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority is required on the part of the Issuer in connection with the consummation of the transactions contemplated by this Subscription Agreement, except for filings pursuant to Regulation D of the Securities Act and applicable state securities laws.

2.2.10. As of the date hereof, there are no pending or, to the knowledge of the Issuer, threatened, suits, claims, actions, or proceedings, which, if determined adversely, would, individually or in the aggregate, reasonably be expected to have an Issuer Material Adverse Effect. As of the date hereof, there is no unsatisfied judgment or any open injunction binding upon the Issuer, which would, individually or in the aggregate, reasonably be expected to have an Issuer Material Adverse Effect.

2.2.11. The Issuer is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority, self-regulatory organization or other person in connection with the execution, delivery and performance by the Issuer of this Subscription Agreement (including, without limitation, the issuance

of the Subscribed Shares), other than (i) filings with the Commission, (ii) filings required by applicable state securities laws, (iii) those required by The Nasdaq Stock Market LLC (“**Nasdaq**”) or another applicable stock exchange, and (iv) filings, the failure of which to obtain would not be reasonably be expected to have, individually or in the aggregate, an Issuer Material Adverse Effect.

2.2.12. The Issuer made available to Subscriber (including via the Commission’s EDGAR system) a true, correct and complete copy of each form, report, statement, schedule, prospectus, proxy, registration statement and other documents filed by the Issuer with the Commission prior to the date of this Subscription Agreement (the “**SEC Documents**”), which SEC Documents, as of their respective filing dates, complied in all material respects with the requirements of the Exchange Act applicable to the SEC Documents and the rules and regulations of the Commission promulgated thereunder and applicable to the SEC Documents. As of their respective dates, all SEC Documents required to be filed by the Issuer with the Commission prior to the date hereof complied in all material respects with the applicable requirements of the Securities Act and the Exchange Act and the rules and regulations of the Commission promulgated thereunder. None of the SEC Documents filed under the Exchange Act, contained, when filed or, if amended prior to the date of this Subscription Agreement, as of the date of such amendment with respect to those disclosures that are amended, any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Issuer has timely filed each report, statement, schedule, prospectus, and registration statement that the Issuer was required to file with the Commission since its inception and through the date hereof. As of the date hereof, there are no material outstanding or unresolved comments in comment letters from the Commission staff with respect to any of the SEC Documents.

2.2.13. No broker, finder or other financial consultant has acted on behalf of the Issuer in connection with this Subscription Agreement or the transactions contemplated hereby in such a way as to create any liability on Subscriber.

2.2.14. The Issuer is not, and immediately after receipt of payment for the Subscribed Shares will not be, required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

3. Settlement Date and Delivery.

Closing. The closing of the Subscription contemplated hereby (the “**Closing**”) shall occur on the date hereof (the “**Closing Date**”). On the Closing Date, the Subscriber shall pay the Purchase Price by wire transfer of immediately available funds to the Issuer to such bank account or accounts as shall be designated by the Issuer. Three (3) business days following the Closing Date, the Issuer shall cause the Subscribed Shares to be delivered to the Subscriber, with the delivery of the Subscribed Shares to be made either through the facilities of The Depository Trust Company’s DWAC system in accordance with instructions provided by the Subscriber or through book entry confirmation from the Issuer’s transfer agent.

3.1. Conditions to Closing of the Issuer.

The Issuer's obligations to sell and issue the Subscribed Shares at the Closing are subject to the fulfillment or (to the extent permitted by applicable law) written waiver by the Issuer, on or prior to the Closing Date, of each of the following conditions:

3.1.1. Representations and Warranties Correct. The representations and warranties made by Subscriber in Section 2.1 hereof shall be true and correct in all material respects when made (unless they specifically speak as of another date in which case they shall be true and correct in all material respects as of such date) (other than representations and warranties that are qualified as to materiality or Subscriber Material Adverse Effect, which representations and warranties shall be true and correct in all respects), and shall be true and correct in all material respects on and as of the Closing Date (unless they specifically speak as of another date in which case they shall be true and correct in all material respects as of such date) (other than representations and warranties that are qualified as to materiality or Subscriber Material Adverse Effect, which representations and warranties shall be true in all respects) with the same force and effect as if they had been made on and as of said date.

3.1.2. Compliance with Covenants. Subscriber shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Subscription Agreement to be performed, satisfied or complied with by Subscriber at or prior to the Closing.

3.1.3. Legality. There shall not be in force any order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any governmental authority, statute, rule or regulation enjoining or prohibiting the consummation of the Subscription.

3.2. Conditions to Closing of Subscriber.

Subscriber's obligation to purchase the Subscribed Shares at the Closing is subject to the fulfillment or (to the extent permitted by applicable law) written waiver by Subscriber, on or prior to the Closing Date, of each of the following conditions:

3.2.1. Representations and Warranties Correct. The representations and warranties made by the Issuer in Section 2.2 hereof shall be true and correct in all material respects when made (unless they specifically speak as of another date in which case they shall be true and correct in all material respects as of such date) (other than representations and warranties that are qualified as to materiality or Issuer Material Adverse Effect, which representations and warranties shall be true and correct in all respects), and shall be true and correct in all material respects on and as of the Closing Date (unless they specifically speak as of another date in which case they shall be true and correct in all material respects as of such date) (other than representations and warranties that are qualified as to materiality or Issuer Material Adverse Effect, which representations and warranties shall be true and correct in all respects) with the same force and effect as if they had been made on and as of said date.

3.2.2. Compliance with Covenants. The Issuer shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Subscription Agreement to be performed, satisfied or complied with by the Issuer at or prior to the Closing, except where the failure of such performance or compliance would not or would not reasonably be expected to prevent, materially delay, or materially impair the ability of the Issuer to consummate the Closing.

3.2.3. Legality. There shall not be in force any order, judgment, injunction, decree, writ, stipulation, determination or award, in each case, entered by or with any governmental authority, statute, rule or regulation enjoining or prohibiting consummation of the transactions contemplated by this Subscription Agreement and no such governmental authority shall have instituted or threatened in writing a proceeding seeking to impose any such restraint or prohibition (except in the case of a governmental authority located outside the United States where such restraint or prohibition would not be reasonably expected to result in in Issuer Material Adverse Effect).

3.2.4. Listing. No suspension of the qualification of the Common Stock for offering or sale or trading in any jurisdiction, and no suspension or removal from listing of the Common Stock on Nasdaq or another applicable stock exchange, and no initiation or threatening of any proceedings for any of such purposes or delisting, shall have occurred.

4. Lock-up. The Subscriber hereby agrees that it will not, during the period commencing on the date hereof and ending 90 days after the date hereof (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock beneficially owned (as such term is used in Rule 13d-3 of the Exchange Act), by the Subscriber or any other securities so owned convertible into or exercisable or exchangeable for Common Stock, or (2) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of the Common Stock, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to transfers of shares of Common Stock or any other securities convertible into or exercisable or exchangeable for Common Stock to the Issuer in connection with the exercise of options, warrants or other rights to acquire shares of Common Stock or any security convertible into or exercisable for shares of Common Stock of the Issuer by way of net exercise and/or to cover withholding tax obligations in connection with such exercise pursuant to an employee benefit plan, option or warrant, provided that any such shares of the Common Stock issued upon exercise of such option, warrant or other right shall be subject to the restrictions set forth in this Section 4.

5. Termination. This Subscription Agreement shall terminate and be void and of no further force and effect, and all rights and obligations of the parties hereunder shall terminate without any further liability on the part of any party in respect thereof, upon the earliest to occur of (i) upon the mutual written agreement of each of the parties hereto to terminate this Subscription Agreement and (ii) at the election of Subscriber after May 21, 2023 if the Closing shall not have occurred; provided that nothing herein will relieve any party from liability for any

willful breach hereof prior to the time of termination, and each party will be entitled to any remedies at law or in equity to recover losses, liabilities or damages arising from such breach.

6. Miscellaneous.

6.1. Further Assurances. At the Closing, the parties hereto shall execute and deliver such additional documents and take such additional actions as the parties reasonably may deem to be practical and necessary in order to consummate the Subscription as contemplated by this Subscription Agreement.

6.1.1. Subscriber acknowledges that the Issuer will rely on the acknowledgments, understandings, agreements, representations and warranties made by Subscriber contained in this Subscription Agreement. Prior to the Closing, Subscriber agrees to promptly notify the Issuer if any of the acknowledgments, understandings, agreements, representations and warranties made by Subscriber set forth herein are no longer accurate in all material respects. The Issuer acknowledges that Subscriber will rely on the acknowledgments, understandings, agreements, representations and warranties made by the Issuer contained in this Subscription Agreement.

6.1.2. Each of the Issuer and the Subscriber is entitled to rely upon this Subscription Agreement and is irrevocably authorized to produce this Subscription Agreement or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby.

6.1.3. The Issuer may request from Subscriber such additional information as the Issuer may reasonably deem necessary to evaluate the eligibility of Subscriber to acquire the Subscribed Shares, and Subscriber shall provide such information as may be reasonably requested, to the extent within Subscriber's possession and control or otherwise readily available to Subscriber, provided that the Issuer agrees to keep confidential any such information provided by Subscriber.

6.1.4. Each of Subscriber and the Issuer shall pay all of its own respective expenses in connection with this Subscription Agreement and the transactions contemplated herein.

6.1.5. Each of Subscriber and the Issuer shall take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or advisable to consummate the transactions contemplated by this Subscription Agreement on the terms and conditions described herein.

6.2. Subscriber hereby acknowledges and agrees that it will not, nor will any person acting at Subscriber's direction or pursuant to any understanding with Subscriber (including Subscriber's controlled affiliates), directly or indirectly, offer, sell, pledge, contract to sell, sell any option in, or engage in hedging activities or execute any "short sales" (as defined in Rule 200 of Regulation SHO under the Exchange Act) with respect to, any Subscribed Shares or any securities of the Issuer or any instrument exchangeable for or convertible into any Subscribed Shares or any securities of the Issuer until the termination of this Subscription Agreement in accordance with its terms. Notwithstanding the foregoing, (i) nothing herein shall

prohibit any entities under common management with Subscriber that have no knowledge of this Subscription Agreement or of Subscriber's participation in the transactions contemplated hereby (including Subscriber's controlled affiliates and/or affiliates) from entering into any short sales; (ii) in the case of a Subscriber that is a multimanaged investment vehicle whereby separate portfolio managers manage separate portions of such Subscriber's assets and the portfolio managers have no knowledge of the investment decisions made by the portfolio managers managing other portions of such Subscriber's assets, this Section 6.2 shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Subscribed Shares covered by this Subscription Agreement.

6.3. Notices. Any notice or communication required or permitted hereunder shall be in writing and either delivered personally, emailed or sent by overnight mail via a reputable overnight carrier, or sent by certified or registered mail, postage prepaid, and shall be deemed to be given and received (i) when so delivered personally, (ii) when sent, with no mail undeliverable or other rejection notice, if sent by email during business hours or the next Business Day if sent outside of business hours, or (iii) three (3) Business Days after the date of mailing to the address below or to such other address or addresses as such person may hereafter designate by notice given hereunder:

(i) if to Subscriber, to such address or addresses set forth on the signature page hereto;

(ii) if to the Issuer, to:

Biodesix, Inc.
2970 Wilderness Place, Suite 100
Boulder, CO 80301
Attention: Scott Hutton/Robin Harper Cowie
E-mail:

with a required copy (which copy shall not constitute notice) to:

Sidley Austin LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Attention: Frank Rahmani/Samir Gandhi
Email:

6.4. Entire Agreement. This Subscription Agreement constitutes the entire agreement, and supersedes all other prior agreements, understandings, representations and warranties, both written and oral, among the parties, with respect to the subject matter hereof, including any commitment letter entered into relating to the subject matter hereof.

6.5. Modifications and Amendments. This Subscription Agreement may not be amended, modified, supplemented or waived except by an instrument in writing, signed by the

party against whom enforcement of such amendment, modification, supplement or waiver is sought.

6.6. Assignment. Neither this Subscription Agreement nor any rights, interests or obligations that may accrue to the parties hereunder (including Subscriber's rights to purchase the Subscribed Shares) may be transferred or assigned without the prior written consent of the Issuer; provided that Subscriber's rights and obligations hereunder may be assigned to any fund or account managed by the same investment manager as Subscriber, without the prior consent of the Issuer, provided that such assignee(s) agrees in writing to be bound by the terms hereof, and upon such assignment by a Subscriber, the assignee(s) shall become Subscriber hereunder and have the rights and obligations and be deemed to make the representations and warranties of Subscriber provided for herein to the extent of such assignment; provided further that, no assignment shall relieve the assigning party of any of its obligations hereunder, including any assignment to any fund or account managed by the same investment manager as Subscriber.

6.7. Benefit. Except as otherwise provided herein, this Subscription Agreement shall be binding upon, and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns, and the agreements, representations, warranties, covenants and acknowledgments contained herein shall be deemed to be made by, and be binding upon, such heirs, executors, administrators, successors, legal representatives and permitted assigns. This Subscription Agreement shall not confer rights or remedies upon any person other than the parties hereto and their respective successors and assigns.

6.8. Governing Law. This Subscription Agreement, and any claim or cause of action hereunder based upon, arising out of or related to this Subscription Agreement (whether based on law, in equity, in contract, in tort or any other theory) or the negotiation, execution, performance or enforcement of this Subscription Agreement, shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof.

6.9. Consent to Jurisdiction; Waiver of Jury Trial. Each of the parties irrevocably consents to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware, provided that if subject matter jurisdiction over the matter that is the subject of the legal proceeding is vested exclusively in the U.S. federal courts, such legal proceeding shall be heard in the U.S. District Court for the District of Delaware (together with the Court of Chancery of the State of Delaware, "**Chosen Courts**"), in connection with any matter based upon or arising out of this Subscription Agreement. Each party hereby waives, and shall not assert as a defense in any legal dispute, that (i) such person is not personally subject to the jurisdiction of the Chosen Courts for any reason, (ii) such legal proceeding may not be brought or is not maintainable in the Chosen Courts, (iii) such person's property is exempt or immune from execution, (iv) such legal proceeding is brought in an inconvenient forum or (v) the venue of such legal proceeding is improper. Each party hereby consents to service of process in any such proceeding in any manner permitted by Delaware law, further consents to service of process by nationally recognized overnight courier service guaranteeing overnight delivery, or by registered or certified mail, return receipt requested, at its address specified pursuant to Section 6.3 and waives and covenants not to assert or plead any objection which they might otherwise have to

such manner of service of process. Notwithstanding the foregoing in this Section 6.9, a party may commence any action, claim, cause of action or suit in a court other than the Chosen Courts solely for the purpose of enforcing an order or judgment issued by the Chosen Courts. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, EACH OF THE PARTIES WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIMS OR COUNTERCLAIMS ASSERTED IN ANY LEGAL DISPUTE RELATING TO THIS SUBSCRIPTION AGREEMENT WHETHER NOW EXISTING OR HEREAFTER ARISING. IF THE SUBJECT MATTER OF ANY SUCH LEGAL DISPUTE IS ONE IN WHICH THE WAIVER OF JURY TRIAL IS PROHIBITED, NO PARTY SHALL ASSERT IN SUCH LEGAL DISPUTE A NONCOMPULSORY COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS SUBSCRIPTION AGREEMENT. FURTHERMORE, NO PARTY SHALL SEEK TO CONSOLIDATE ANY SUCH LEGAL DISPUTE WITH A SEPARATE ACTION OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL CANNOT BE WAIVED.

6.10. Severability. If any provision of this Subscription Agreement shall be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Subscription Agreement shall not in any way be affected or impaired thereby and shall continue in full force and effect.

6.11. No Waiver of Rights, Powers and Remedies. No failure or delay by a party hereto in exercising any right, power or remedy under this Subscription Agreement, and no course of dealing between the parties hereto, shall operate as a waiver of any such right, power or remedy of such party. No single or partial exercise of any right, power or remedy under this Subscription Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, shall preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto shall not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Subscription Agreement shall entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand.

6.12. Remedies.

6.12.1. The parties agree that irreparable damage would occur if this Subscription Agreement is not performed or the Closing is not consummated in accordance with its specific terms or is otherwise breached and that money damages or other legal remedies would not be an adequate remedy for any such damage. It is accordingly agreed that the parties hereto shall be entitled to equitable relief, including in the form of an injunction or injunctions, to prevent breaches or threatened breaches of this Subscription Agreement and to enforce specifically the terms and provisions of this Subscription Agreement in an appropriate court of competent jurisdiction as set forth in Section 6.9, this being in addition to any other remedy to which any party is entitled at law or in equity, including money damages. The right to specific enforcement shall include the right of the parties hereto to cause the other parties hereto to cause the

transactions contemplated hereby to be consummated on the terms and subject to the conditions and limitations set forth in this Subscription Agreement. The parties hereto further agree (i) to waive any requirement for the security or posting of any bond in connection with any such equitable remedy, (ii) not to assert that a remedy of specific enforcement pursuant to this Section 6.12 is unenforceable, invalid, contrary to applicable law or inequitable for any reason and (iii) to waive any defenses in any action for specific performance, including the defense that a remedy at law would be adequate.

6.12.2. The parties acknowledge and agree that this Section 6.12 is an integral part of the transactions contemplated hereby and without that right, the parties hereto would not have entered into this Subscription Agreement.

6.13. Survival of Representations and Warranties and Covenants. All representations and warranties made by the parties hereto, and all covenants and other agreements of the parties hereto, in this Subscription Agreement shall survive the Closing.

6.14. Headings. The headings of the sections of this Subscription Agreement have been inserted for convenience of reference only and shall not be deemed a part of this Subscription Agreement.

6.15. Counterparts. This Subscription Agreement may be executed in one or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other parties, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission or any other form of electronic delivery, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

6.16. Construction. The words “include,” “includes,” and “including” will be deemed to be followed by “without limitation.” Pronouns in masculine, feminine, and neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words “this Subscription Agreement,” “herein,” “hereof,” “hereby,” “hereunder,” and words of similar import refer to this Subscription Agreement as a whole and not to any particular subdivision unless expressly so limited. The parties hereto intend that each representation, warranty, and covenant contained herein will have independent significance. If any party hereto has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty or covenant relating to the same subject matter (regardless of the relative levels of specificity) which such party hereto has not breached will not detract from or mitigate the fact that such party hereto is in breach of the first representation, warranty, or covenant. All references in this Subscription Agreement to numbers of shares, per share amounts and purchase prices shall be appropriately adjusted to reflect any stock split, stock dividend, stock combination, recapitalization or the like occurring after the date hereof.

6.17. Mutual Drafting. This Subscription Agreement is the joint product of the parties hereto and each provision hereof has been subject to the mutual consultation, negotiation and agreement of the parties and shall not be construed for or against any party hereto.

7. Non-Reliance. Subscriber acknowledges that it is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, firm or corporation, other than the representations and warranties of the Issuer expressly set forth in this Subscription Agreement, in making its investment or decision to invest in the Issuer. Subscriber agrees that no Other Subscriber pursuant to this Subscription Agreement or any other agreement related to the private placement of shares of the Issuer's capital stock (including the controlling persons, officers, directors, partners, agents or employees of any such Subscriber) shall be liable to any Other Subscriber pursuant to this Subscription Agreement or any other agreement related to the private placement of shares of the Issuer's capital stock for any action heretofore or hereafter taken or omitted to be taken by any of them in connection with the purchase of the Subscribed Shares hereunder.

8. Rule 144. From and after such time as the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the Commission that may allow Subscriber to sell securities of the Issuer to the public without registration are available to holders of the Issuer's shares of common stock and for so long as Subscriber holds the Subscribed Shares, the Issuer agrees to:

8.1. make and keep public information available, as those terms are understood and defined in Rule 144; and

8.2. file with the Commission in a timely manner all reports and other documents required of the Issuer under the Securities Act and the Exchange Act so long as the Issuer remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144.

If the Subscribed Shares are eligible to be sold without restriction under, and without the Issuer being in compliance with the current public information requirements of, Rule 144 under the Securities Act, then at Subscriber's request and upon delivery of an opinion of counsel by Subscriber, in form reasonably satisfactory to the transfer agent of the Issuer, the Issuer will cause its transfer agent to remove the applicable restrictive legend.

9. Massachusetts Business Trust. If Subscriber is a Massachusetts Business Trust, a copy of the Agreement and Declaration of Trust of Subscriber or any affiliate thereof is on file with the Secretary of State of the Commonwealth of Massachusetts and notice is hereby given that the Subscription Agreement is executed on behalf of the trustees of Subscriber or any affiliate thereof as trustees and not individually and that the obligations of the Subscription Agreement are not binding on any of the trustees, officers or stockholders of Subscriber or any affiliate thereof individually but are binding only upon Subscriber or any affiliate thereof and its assets and property.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Issuer and Subscriber has executed or caused this Subscription Agreement to be executed by its duly authorized representative as of the date set forth below.

BIODESIX, INC.

By: _____
Name:
Title:

Accepted and agreed this 21st day of November, 2022.

SUBSCRIBER:

Signature of Subscriber:

By: _____
Name: _____
Title: _____

Date: November 21, 2022

Name of Subscriber:

(Please print. Please indicate name and Capacity of person signing above)

Name in which securities are to be registered (if different from the name of Subscriber listed directly above):

Email Address:

If there are joint investors, please check one:

- Joint Tenants with Rights of Survivorship
- Tenants-in-Common
- Community Property

Subscriber's EIN: _____

Business Address-Street:

Signature of Joint Subscriber, if applicable:

By: _____
Name: _____
Title: _____

Name of Joint Subscriber, if applicable:

(Please print. Please indicate name and Capacity of person signing above)

Joint Subscriber's EIN: _____

Mailing Address-Street (if different):

City, State, Zip:

City, State, Zip:

Attn:

Attn:

Telephone No.: _____

Telephone No.:

Facsimile No.: _____

Facsimile No.:

Aggregate Number of Subscribed Shares subscribed for:

Aggregate Purchase Price: \$_____.

You must pay the Purchase Price by wire transfer of U.S. dollars in immediately available funds, to be held in escrow until the Closing, to the account specified by the Issuer in the Closing Notice.

SCHEDULE I

ELIGIBILITY REPRESENTATIONS OF SUBSCRIBER

A. QUALIFIED INSTITUTIONAL BUYER STATUS

(Please check the applicable subparagraphs):

1. We are a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”) (a “**QIB**”).
2. We are subscribing for the Subscribed Shares as a fiduciary or agent for one or more investor accounts, and each owner of such account is a QIB.

*** OR ***

B. INSTITUTIONAL ACCREDITED INVESTOR STATUS (Please check the applicable subparagraphs):

1. We are an “accredited investor” (within the meaning of Rule 501(a) under the Securities Act) or an entity in which all of the equity holders are accredited investors within the meaning of Rule 501(a) under the Securities Act, and have marked and initialed the appropriate box on the following page indicating the provision under which we qualify as an “accredited investor.”
2. We are not a natural person.

*** AND ***

C. AFFILIATE STATUS

(Please check the applicable box) SUBSCRIBER:

is:

is not:

an “affiliate” (as defined in Rule 144 under the Securities Act) of the Issuer or acting on behalf of an affiliate of the Issuer.

***This page should be completed by Subscriber
and constitutes a part of the Subscription Agreement.***

Rule 501(a) under the Securities Act, in relevant part, states that an “accredited investor” shall mean any person who comes within any of the below listed categories, or who the issuer reasonably believes comes within any of the below listed categories, at the time of the sale of the securities to that person. Subscriber has indicated, by marking and initialing the appropriate box below, the provision(s) below which apply to Subscriber and under which Subscriber accordingly qualifies as an “accredited investor.”

- Any bank as defined in section 3(a)(2) of the Securities Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Securities Act whether acting in its individual or fiduciary capacity;
 - Any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934, as amended;
 - Any insurance company as defined in section 2(a)(13) of the Securities Act;
 - Any investment company registered under the Investment Company Act of 1940, as amended (the “Investment Company Act”) or a business development company as defined in section 2(a)(48) of the Investment Company Act;
 - Any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958, as amended;
 - Any Rural Business Investment Company as defined in section 384A of the Consolidated Farm and Rural Development Act, as amended;
 - Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000;
 - Any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), if (i) the investment decision is made by a plan fiduciary, as defined in section 3(21) of ERISA, which is either a bank, a savings and loan association, an insurance company, or a registered investment adviser, (ii) the employee benefit plan has total assets in excess of \$5,000,000 or, (iii) such plan is a self-directed plan, with investment decisions made solely by persons that are “accredited investors”;
 - Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940, as amended;
 - Any (i) corporation, limited liability company or partnership, (ii) Massachusetts or similar business trust, or (iii) organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, not formed for the specific purpose of acquiring the securities offered, and with total assets in excess of \$5,000,000;
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- Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;
 - Any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000. For purposes of calculating a natural person's net worth: (a) the person's primary residence shall not be included as an asset; (b) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of securities exceeds the amount outstanding sixty (60) days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and (c) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of securities shall be included as a liability;
 - Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;
 - Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Section 230.506(b)(2)(ii) of Regulation D;
 - Any entity in which all of the equity owners are "accredited investors";
 - Any natural person holding in good standing one or more professional certifications or designations or credentials from an accredited educational institution that the SEC has designated as qualifying an individual for accredited investor status, such as a General Securities Representative license (Series 7), a Private Securities Offerings Representative license (Series 82) and an Investment Adviser Representative license (Series 65);
 - Any "family office" as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 which was not formed for the purpose of investing in the Company, has assets under management in excess of \$5,000,000 and whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of the prospective investment; or
 - Any "family client," as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940, of a family office, whose prospective investment in the Company is directed by such family office, and such family office is one (i) with assets under management in excess of \$5,000,000, (ii) that was not formed for the
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specific purpose of investing in the Company, and (iii) whose prospective investment in the Company is directed by a person who has such knowledge and experience in financial and business matters that such family office is capable of evaluating the merits and risks of such prospective investment.



Biodesix Announces Senior Secured Financing Agreement with Perceptive Advisors for Up to \$50 Million

\$30 million initial funding

\$20 million in future revenue milestone-based funding

Strengthens balance sheet and extends runway with five-year interest only period

BOULDER, CO, November 16, 2022 – Biodesix, Inc. (Nasdaq: BDSX), a leading data-driven diagnostic solutions company with a focus in lung disease, today announced that it has obtained a term loan facility for up to \$50 million from Perceptive Advisors, a leading healthcare investment firm focused on supporting progress in the life sciences industry by identifying opportunities and directing financial resources toward the most promising technologies in modern healthcare. This debt capital, which is conditioned on the Company raising at least \$30 million in gross proceeds through sale of its equity securities, is part of a strategic fund raising effort to strengthen the Company's balance sheet, reduce near term cash use and enable the continued growth trajectory of the core lung diagnostics business. The proceeds from this debt offering will be used for repayment of existing debt facilities, working capital, and general corporate purposes, including expansion of the commercialization activities for the Company's five Medicare reimbursed lung diagnostic tests.

"This financing provides Biodesix with significant flexibility and strengthens our balance sheet thereby positioning us to continue building on the growth momentum we have seen the past few quarters," said Robin Harper Cowie, Chief Financial Officer of Biodesix. "We are pleased to have the support from Perceptive, which is a recognized leader in growth capital financing."

"Perceptive is delighted to provide capital to support the continued growth of Biodesix's lung diagnostics portfolio," said Sam Chawla, Portfolio Manager of Perceptive Advisors. "With a comprehensive set of five Medicare covered tests on the market today that address the diagnostic needs of caregivers and patients across the lung continuum of care, Biodesix represents a unique opportunity to impact the lives of patients. We are excited to collaborate with Biodesix and look forward to participating in the Company's growth."

Under the terms of the agreement, Biodesix will receive an initial \$30 million funding, subject to closing conditions, including the equity issuance noted above. An additional \$20 million will be available in two separate \$10 million tranches under the same terms and collateral, subject to certain timelines and other defined criteria that will be subject to the lender's approval. The credit facility is interest only for the term of the facility, which is five years from the initial funding date. The term loan bears interest at a per annum rate equal to the greater of the forward looking one-month SOFR and 3.00% per annum, plus an applicable margin of 9.00%, payable monthly in arrears. The term loan is secured by a first lien on all Company assets.

In connection with the closing of the initial funding, the Company will issue to Perceptive warrants to purchase up to 5,000,000 shares of the Company's common stock, with warrants exercisable into 3,000,000 shares of the Company's common stock to be issued on the funding date of the initial \$30 million funding (the "Initial Warrants"). The per share exercise price for the Initial Warrants will be equal to the lower of (i) the 10-day volume weighted average price (the "10-day VWAP") ending on the business day immediately preceding the funding date of initial loan and (ii) the per share public offering price of the Company's shares of common stock issued in connection with the required equity raise. In addition to the Initial Warrants, additional warrants will become exercisable into 1,000,000 shares of the Company's common stock concurrently with the borrowing of each

additional \$10 million term loan funding. The per share exercise price for the additional warrants will be equal to the lower of (i) the Initial Warrant exercise price or (ii) the 10-dayVWAP ending on the business day immediately preceding the funding date of each funding date. Each warrant will be exercisable, in whole or in part, until the 10th anniversary of the applicable date of issuance, subject to certain expiration events as set described in the warrants.

Additional details of the loan agreement will be filed with the Securities and Exchange Commission on a Current Report on Form 8-K.

About Perceptive Advisors

Founded in 1999, Perceptive Advisors is a leading healthcare focused investment firm with approximately \$9.5 billion of regulatory assets under management. Since inception, Perceptive Advisors has focused on supporting progress in the life sciences industry by identifying opportunities and directing financial resources toward the most promising technologies in modern healthcare. For more information about Perceptive, visit www.perceptivelife.com.

About Biodesix

Biodesix is a leading data-driven diagnostic solutions company with a focus in lung disease. The Company develops diagnostic tests addressing important clinical questions by combining multi-omics through the power of artificial intelligence. Biodesix offers five Medicare-covered tests for patients with lung diseases. The blood based Nodify Lung® nodule risk assessment testing strategy, consisting of the NodifyXL2® and the Nodify CDT® tests, evaluates the risk of malignancy in incidental pulmonary nodules, enabling physicians to better triage patients to the most appropriate course of action. The blood based IQLung™ strategy for lung cancer patients integrates the GeneStrat® ddPCR™ test, the GeneStrat NGS™ test and the VeriStrat® test to support treatment decisions across all stages of lung cancer with results in an average of 36-72 hours, expediting time to treatment. Biodesix also leverages the proprietary and advanced Diagnostic Cortex® AI (Artificial Intelligence) platform, to collaborate with many of the world's leading biotechnology and pharmaceutical companies to solve complex diagnostic challenges in lung disease. For more information about Biodesix, visit biodesix.com.

Note Regarding Forward-Looking Statements

This press release may contain forward-looking statements that involve substantial risks and uncertainties for purposes of the safe harbor provided by the Private Securities Litigation Reform Act of 1995. All statements contained in this press release other than statements of historical fact, are forward-looking statements. The words “believe,” “may,” “will,” “estimate,” “continue,” “anticipate,” “intend,” “plan,” “expect,” “predict,” “potential,” “opportunity,” “goals,” or “should,” and similar expressions are intended to identify forward-looking statements. Such statements are based on management's current expectations and involve risks and uncertainties. Actual results and performance could differ materially from those projected in the forward-looking statements as a result of many factors. Biodesix has based these forward-looking statements largely on its current expectations and projections about future events and trends. These forward-looking statements are subject to a number of risks, uncertainties, and assumptions. Forward-looking statements may include information concerning the impact of the COVID-19 pandemic on Biodesix and its operations, its possible or assumed future results of operations, including descriptions of its revenues, profitability, outlook, and overall business strategy, as well as statements relating to the Company's plans to consummate its proposed public offering, the size of the offering and its intended use of the net proceeds therefrom. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. The Company's ability to continue as a going concern could cause actual results to differ materially from those contemplated in this press release and additionally, other factors that could cause actual results to differ materially from those contemplated in this press release can be found in the Risk Factors section of Biodesix's most recent annual report on Form 10-K, filed

March 14, 2022 or subsequent quarterly reports on Form 10-Q during 2022, if applicable. Biodesix undertakes no obligation to revise or publicly release the results of any revision to such forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements. All forward-looking statements are qualified in their entirety by this cautionary statement.

Contacts:

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Investors:

Chris Brinzey
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(339) 970-2843



Biodesix Announces Pricing of \$35.1 Million Upsized Public Offering of Common Stock

BOULDER, CO, November 16, 2022 – Biodesix, Inc. (Nasdaq: BDSX), a leading data-driven diagnostic solutions company with a focus in lung disease, today announced that it has commenced an underwritten public offering of \$30 million of shares of its common stock, before deducting underwriting discounts and commissions and other offering expenses. In connection with the offering, Biodesix intends to grant the underwriters a 30-day option to purchase up to an additional \$4.5 million of shares of its common stock at the public offering price, less underwriting discounts and commissions. All of the shares in the offering are to be sold by Biodesix. The offering is subject to market and other conditions, and there can be no assurance as to whether or when the offering may be completed, or as to the actual size or terms of the offering.

The net proceeds of the offering are expected to be used for commercial expansion of sales, supporting its product pipeline, research and development and for general corporate purposes.

William Blair is acting as sole bookrunning manager for the offering.

The shares are being offered by Biodesix pursuant to a shelf registration statement on Form S-3 that was initially filed with the Securities and Exchange Commission (“SEC”) on November 15, 2021 and declared effective by the SEC on November 29, 2021. The offering is being made by means of a prospectus supplement and accompanying prospectus that form part of the registration statement. A preliminary prospectus supplement and accompanying prospectus relating to, and describing the terms of, the offering has been filed with the SEC and is available on the SEC’s website at www.sec.gov. A final prospectus supplement and accompanying prospectus relating to the offering will be filed with the SEC. Copies of the prospectus supplement and the accompanying prospectus relating to this offering can be obtained by contacting: William Blair & Company, L.L.C., Attention: Prospectus Department, 150 North Riverside Plaza, Chicago, IL 60606, by telephone at (800) 621-0687, or by email at prospectus@williamblair.com.

This press release does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About Biodesix

Biodesix is a leading data-driven diagnostic solutions company with a focus in lung disease. The Company develops diagnostic tests addressing important clinical questions by combining multi-omics through the power of artificial intelligence.

Note Regarding Forward-Looking Statements

This press release may contain forward-looking statements that involve substantial risks and uncertainties for purposes of the safe harbor provided by the Private Securities Litigation Reform Act of 1995. All statements contained in this press release other than statements of historical fact, are forward-looking statements. The words “believe,” “may,” “will,” “estimate,” “continue,” “anticipate,” “intend,” “plan,” “expect,” “predict,” “potential,” “opportunity,” “goals,” or “should,” and similar expressions are intended to identify forward-looking statements. Such statements are based on management’s current expectations and involve risks and uncertainties. Actual results and performance could differ materially from those projected in the forward-looking statements as a result

of many factors. Biodesix has based these forward-looking statements largely on its current expectations and projections about future events and trends. These forward-looking statements are subject to a number of risks, uncertainties, and assumptions. Forward-looking statements may include information concerning the impact of the COVID-19 pandemic on Biodesix and its operations, its possible or assumed future results of operations, including descriptions of its revenues, profitability, outlook, and overall business strategy, as well as statements relating to the Company's plans to consummate its proposed public offering, the size of the offering and its intended use of the net proceeds therefrom. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. The Company's ability to continue as a going concern could cause actual results to differ materially from those contemplated in this press release and additionally, other factors that could cause actual results to differ materially from those contemplated in this press release can be found in the Risk Factors section of Biodesix's most recent annual report on Form 10-K, filed March 14, 2022 or subsequent quarterly reports on Form 10-Q during 2022, if applicable. Biodesix undertakes no obligation to revise or publicly release the results of any revision to such forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements. All forward-looking statements are qualified in their entirety by this cautionary statement.

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Biodesix Announces Pricing of \$35.1 Million Upsized Public Offering of Common Stock

BOULDER, CO, November 16, 2022 – Biodesix, Inc. (Nasdaq: BDSX), a leading data-driven diagnostic solutions company with a focus in lung disease, today announced the pricing of an underwritten public offering of 30,500,000 shares of its common stock at a price to the public of \$1.15 per share, before underwriting discounts and commissions. The gross proceeds to Biodesix from the offering, before deducting underwriting discounts and commissions and other offering expenses payable by Biodesix, are expected to be \$35.1 million. The offering is expected to close on November 21, 2022, subject to customary closing conditions. Additionally, Biodesix has granted the underwriters a 30-day option to purchase up to an additional 4,575,000 shares of its common stock at the public offering price, less underwriting discounts and commissions. All of the shares of common stock in the offering will be sold by Biodesix.

William Blair is acting as sole bookrunning manager for the offering.

The shares are being offered by Biodesix pursuant to a shelf registration statement on Form S-3 that was initially filed with the Securities and Exchange Commission (“SEC”) on November 15, 2021 and declared effective by the SEC on November 29, 2021. The offering is being made by means of a prospectus supplement and accompanying prospectus that form part of the registration statement. A preliminary prospectus supplement and accompanying prospectus relating to, and describing the terms of, the offering has been filed with the SEC and is available on the SEC’s website at www.sec.gov. A final prospectus supplement and accompanying prospectus relating to the offering will be filed with the SEC. Copies of the prospectus supplement and the accompanying prospectus relating to this offering can be obtained by contacting: William Blair & Company, L.L.C., Attention: Prospectus Department, 150 North Riverside Plaza, Chicago, IL 60606, by telephone at (800) 621-0687, or by email at prospectus@williamblair.com.

This press release does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About Biodesix

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projections about future events and trends. These forward-looking statements are subject to a number of risks, uncertainties, and assumptions. Forward-looking statements may include information concerning the impact of the COVID-19 pandemic on Biodesix and its operations, its possible or assumed future results of operations, including descriptions of its revenues, profitability, outlook, and overall business strategy, as well as statements relating to the Company's plans to consummate its proposed public offering, the size of the offering and its intended use of the net proceeds therefrom. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. The Company's ability to continue as a going concern could cause actual results to differ materially from those contemplated in this press release and additionally, other factors that could cause actual results to differ materially from those contemplated in this press release can be found in the Risk Factors section of Biodesix's most recent annual report on Form 10-K, filed March 14, 2022 or subsequent quarterly reports on Form 10-Q during 2022, if applicable. Biodesix undertakes no obligation to revise or publicly release the results of any revision to such forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements. All forward-looking statements are qualified in their entirety by this cautionary statement.

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Biodesix Announces Closing of Upsized Public Offering and Full Exercise of Option to Purchase Additional Shares

BOULDER, CO, November 21, 2022 – Biodesix, Inc. (Nasdaq: BDSX), a leading data-driven diagnostic solutions company with a focus in lung disease, today announced the closing of its underwritten public offering of 35,075,000 shares of its common stock at a price to the public of \$1.15 per share, including the exercise in full by the underwriter of its option to purchase up to an additional 4,575,000 shares of common stock in the offering. The gross proceeds to Biodesix from the offering, before deducting underwriting discounts and commissions and other offering expenses payable by Biodesix, were \$40.3 million.

William Blair acted as sole bookrunning manager for the offering.

The shares were offered by Biodesix pursuant to a shelf registration statement on Form S-3 that was initially filed with the Securities and Exchange Commission (“SEC”) on November 15, 2021 and declared effective by the SEC on November 29, 2021. The offering was made by means of a prospectus supplement and accompanying prospectus that form part of the registration statement. A prospectus supplement and accompanying prospectus relating to, and describing the terms of, the offering has been filed with the SEC and is available on the SEC’s website at www.sec.gov. Copies of the prospectus supplement and the accompanying prospectus relating to this offering can be obtained by contacting: William Blair & Company, L.L.C., Attention: Prospectus Department, 150 North Riverside Plaza, Chicago, IL 60606, by telephone at (800) 621-0687, or by email at prospectus@williamblair.com.

This press release does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

About Biodesix

Biodesix is a leading data-driven diagnostic solutions company with a focus in lung disease. The Company develops diagnostic tests addressing important clinical questions by combining multi-omics through the power of artificial intelligence.

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including descriptions of its revenues, profitability, outlook, and overall business strategy. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. The Company's ability to continue as a going concern could cause actual results to differ materially from those contemplated in this press release and additionally, other factors that could cause actual results to differ materially from those contemplated in this press release can be found in the Risk Factors section of Biodesix's most recent annual report on Form 10-K, filed March 14, 2022 or subsequent quarterly reports on Form 10-Q during 2022, if applicable. Biodesix undertakes no obligation to revise or publicly release the results of any revision to such forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements. All forward-looking statements are qualified in their entirety by this cautionary statement.

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