

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

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of The Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported) March 29, 2023

NEURONETICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-38546
(Commission
File Number)

33-1051425
(I.R.S. Employer
Identification No.)

3222 Phoenixville Pike, Malvern, PA
(Address of principal executive offices)

19355
(Zip Code)

Registrant's telephone number, including area code (610) 640-4202

(Former name or former address, if changed since last report.) Not applicable.

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

Title of each class	Trading Symbol (s)	Name on each exchange on which registered
Common Stock (\$0.01 par value)	STIM	The Nasdaq Global Market

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

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

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

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.

Solar Facility Amendment

On March 29, 2023, Neuronetics, Inc. (the “Company”) entered into that certain Fourth Amendment to Loan and Security Agreement (the “Amendment”) with SLR Investment Corp. (formerly known as Solar Capital Ltd.) (“Solar”), as collateral agent, and the lenders listed on the signature pages thereto (the “Lenders”). The Amendment amends that certain Loan and Security Agreement, dated March 2, 2020 (as amended by that certain First Amendment to Loan and Security Agreement, dated as of April 20, 2020, that certain Second Amendment to Loan and Security Agreement, dated as of December 2, 2020, that certain Third Amendment to Loan and Security Agreement, dated as of February 15, 2022 and as further amended, restated, supplemented or modified from time to time prior to the Amendment, the “Solar Facility”), by and among the Company, Solar, as collateral agent, and the Lenders.

The Solar Facility permits the Company to borrow up to \$60.0 million in three tranches of term loans, a “Term A Loan” in an aggregate amount of \$35.0 million, a “Term B Loan” (collectively with the Term A Loan, the “Loans”) in an aggregate amount of \$2.5 million, and an uncommitted “Term C Facility” in an aggregate principal amount equal to \$22.5 million in the sole and absolute discretion of the Lenders and subject to the Lenders’ credit approval. On March 29, 2023, the Company borrowed an aggregate amount of \$2.5 million under the Term B Loan portion of the Solar Facility. The Term A Loan portion of the Solar Facility was fully drawn prior to the effectiveness of the Amendment. The maturity date of the Loans is March 29, 2028. Prior to the effectiveness of the Amendment, the maturity date of the Term A Loan was February 28, 2025.

The Loans accrue interest from the date of borrowing through the date of repayment at a floating per annum rate of interest, which resets monthly and is equal to the greater of (a) 3.95% or (b) Daily Simple SOFR for a term of one month, plus 5.65%. Only interest is required to be paid on the Loans until March 1, 2026. Prior to the effectiveness of the Amendment, the interest only period with respect to the Term A Loan expired on March 1, 2023. After March 1, 2026, the Company will be required to make monthly payments of principal and interest on the Loans.

In addition to the principal and interest payments due under the Solar Facility, the Company is required to pay a final payment fee to Solar due upon the earlier of prepayment, acceleration or the maturity date of the Loans equal to 4.95% of the principal amount of the term loans actually funded. If the Company prepays the Loans prior to their respective scheduled maturities, the Company will also be required to pay prepayment fees to Solar equal to 3% of the principal amount of such term loan then-prepaid if prepaid on or before the first anniversary of the Amendment, 2% of the principal amount of such term loan then-prepaid if prepaid after the first anniversary and on or before the second anniversary of the Amendment, or 1% of the principal amount of such term loan then-prepaid if prepaid after the second anniversary of the Amendment.

The Company is also required to pay Solar an exit fee upon the occurrence of (a) any liquidation, dissolution or winding up of the Company, (b) any transaction that results in a person obtaining control over the Company, (c) the Company achieving \$100 million in trailing twelve month net product revenue or (d) the Company achieving \$125 million in trailing twelve month net product revenue. The exit fee for liquidation, dissolution, winding up or change of control of the Company is equal to 2.00% of the principal amount of the term loans actually funded. The exit fee for achieving either \$100 million or \$125 million in trailing twelve month net product revenue is equal to 1.00% of the principal amount of the term loans actually funded or, if both net product revenue milestones are achieved, 2.00% of the principal amount of the term loans actually funded. The exit fee is capped at 2.00% of the principal amount of the term loans actually funded.

In connection with the Amendment, the Company and Solar agreed to amend the existing exit fee agreement that was entered into in connection with initial closing of the Solar Facility. In the case of a liquidation, the fee payable by the Company to the Lenders on a pro rata basis is equal to \$1,575,000. If the Company achieves certain sales milestones, the fee payable to the Lenders is equal to \$787,500. The maximum fee payable in connection with the existing exit fee agreement is \$1,575,000.

The foregoing summary of the Amendment does not purport to be complete and is qualified in its entirety by reference to the Amendment, a copy of which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

Greenbrook Promissory Note

On March 31, 2023, the Company entered into a Secured Promissory Note and Guaranty Agreement (the “Promissory Note”) with TMS Neurohealth Centers Inc. (the “Maker”) and Greenbrook TMS Inc. and its subsidiaries, excluding the Maker (the “Guarantors”), in the principal amount of \$6,000,000. The Promissory Note converts the Maker’s outstanding account balance of approximately \$5.9 million payable to the Company for the supply of TMS devices and treatment sessions pursuant to that certain Amended and Restated Master Sales Agreement, dated as of January 17, 2023, between the Company and the Maker, as amended.

The Promissory Note matures on March 31, 2027 and bears interest at a floating rate of Daily Simple SOFR plus 7.65% per annum. Interest is payable on the Promissory Note commencing on July 1, 2023 and principal is payable in 45 equal monthly instalments commencing on July 1, 2023.

Pursuant to the terms of the Promissory Note, in the event of an event of default thereunder, the Maker will be required to issue common share purchase warrants to the Company equal to (i) 200% of the unpaid amount of any delinquent amount or payment due and payable under the Promissory Note, together with all outstanding and unpaid accrued interest, fees, charges and costs, divided by (ii) the exercise price of the Warrants, which will represent a 20% discount to the 30-day volume-weighted average closing price of the Company’s common shares traded on the Nasdaq Stock Market (“Nasdaq”) prior to the date of issuance (subject to any limitations that may be required by Nasdaq).

Under the Promissory Note and related loan documents, the Maker and the Guarantors have granted to the Company a security interest in substantially all of the Maker and the Guarantors’ assets and the Guarantors have guaranteed the Company’s obligations under the Promissory Note. The Company’s security interest pursuant to the Promissory Note and related loan documents ranks *pari passu* with the Maker’s senior lender, Madryn Fund Administration, LLC, and is subject to an intercreditor agreement.

The foregoing summary of the Promissory Note does not purport to be complete and is qualified in its entirety by reference to the Promissory Note, a copy of which is filed as Exhibit 10.2 hereto and incorporated herein by reference.

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

The disclosure set forth under “Solar Facility Amendment” in Item 1.01 of this Current Report on Form 8-K is hereby incorporated by reference.

Item 7.01. Regulation FD Disclosure.

On April 4, 2023, the Company issued a press release announcing the Company’s entry into the Amendment and the Promissory Note. A copy of such press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
10.1†	<u>Fourth Amendment to Loan and Security Agreement, dated March 29, 2023, by and among SLR Investment Corp. (formerly known as Solar Capital Ltd.), as collateral agent, the lenders listed on the signature pages thereto, and Neuronetics, Inc.</u>
10.2†	<u>Secured Promissory Note and Guaranty Agreement, dated March 31, 2023, by and among Neuronetics, Inc., TMS Neurohealth Centers Inc. and Greenbrook TMS Inc. and its subsidiaries listed on the signature pages thereto, as guarantors.</u>
99.1	<u>Press Release of Neuronetics, Inc., dated April 4, 2023.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

† Certain portions have been omitted to preserve the confidentiality of certain information. The Company will furnish copies of any such information to the Securities and Exchange Commission upon request.

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.

NEURONETICS, INC.
(Registrant)

Date: April 4, 2023

By: /s/ Stephen Furlong
Name: Stephen Furlong
Title: EVP, Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

CERTAIN INFORMATION IDENTIFIED WITH THE MARK “[***]” HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE SUCH INFORMATION IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

FOURTH AMENDMENT TO LOAN AND SECURITY AGREEMENT

THIS FOURTH AMENDMENT TO LOAN AND SECURITY AGREEMENT (this “**Amendment**”), dated as of March 29, 2023 (the “**Fourth Amendment Effective Date**”), is made by and among Neuronetics, Inc., a Delaware corporation (the “**Borrower**”), SLR Investment Corp. (formerly known as Solar Capital Ltd.) (“**Solar**”), in its capacity as collateral agent (together with its successors and assigns, in such capacity, “**Collateral Agent**”) and the Lenders listed on the signature pages hereto or otherwise a party to the Loan Agreement (as defined below) from time to time including Solar in its capacity as a Lender (each a “**Lender**” and collectively, the “**Lenders**”).

The Borrower, the Lenders and Collateral Agent are parties to a Loan and Security Agreement dated as of March 2, 2020 (as amended by that certain First Amendment to Loan and Security Agreement, dated as of April 20, 2020, that certain Second Amendment to Loan and Security Agreement, dated as of December 2, 2020, that certain Third Amendment to Loan and Security Agreement, dated as of February 15, 2022, and as further amended, restated, supplemented or modified from time to time prior to the Fourth Amendment Effective Date, the “**Existing Loan Agreement**”; and the Existing Loan Agreement, as amended by this Amendment and as further amended, restated, supplemented or otherwise modified from time to time, the “**Loan Agreement**”).

The Borrower has requested that the Lenders agree to certain amendments to the Existing Loan Agreement, each in accordance with the terms of this Amendment. The Lenders have agreed to such request, subject to the terms and conditions hereof.

Accordingly, the parties hereto agree as follows:

SECTION 1 Definitions; Interpretation.

(a) **Terms Defined in Loan Agreement.** All capitalized terms used in this Amendment (including in the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement.

(b) **Interpretation.** The rules of interpretation set forth in Section 1.1 of the Loan Agreement shall be applicable to this Amendment and are incorporated herein by this reference.

SECTION 2 Amendments to the Existing Loan Agreement.

(a) Upon satisfaction of the conditions set forth in Section 3 hereof, the Existing Loan Agreement is hereby amended as follows:

(i) Exhibit A attached hereto sets forth a clean copy of the Loan Agreement as amended hereby;

(ii) In Exhibit B hereto, deletions of the text in the Existing Loan Agreement (including, to the extent included in such Exhibit B, each Schedule or Exhibit to the Existing Loan Agreement) are indicated by ~~struck-through text~~, and insertions of text are indicated by bold, double-underlined text.

(b) **References Within Existing Loan Agreement.** Each reference in the Existing Loan Agreement to “this Agreement” and the words “hereof,” “herein,” “hereunder,” or words of like import, shall mean and be a reference to the Existing Loan Agreement as amended by this Amendment. This Amendment shall be a Loan Document.

SECTION 3 Conditions of Effectiveness. The effectiveness of Section 2 of this Amendment shall be subject to the satisfaction of each of the following conditions precedent:

(a) **Fees and Expenses.** The Borrower shall have paid (i) all invoiced costs and expenses of Collateral Agent and the Lenders party hereto, and the fees and disbursements of counsel to Collateral Agent and the Lenders party hereto, in connection with the negotiation, preparation, execution and delivery of this Amendment and any other documents to be delivered in connection herewith on the Fourth Amendment Effective Date or after such date, and (ii) all other fees, costs and expenses, if any, due and payable as of the Fourth Amendment Effective Date under the Loan Agreement.

(b) **This Amendment.** Collateral Agent shall have received a copy of this Amendment, executed by Collateral Agent, the Lenders and the Borrower.

(c) **Representations and Warranties; No Default.** On the Fourth Amendment Effective Date, after giving effect to the amendment and waiver of the Loan Agreement contemplated hereby:

(i) The representations and warranties contained in Section 4 shall be true and correct in all material respects on and as of the Fourth Amendment Effective Date as though made on and as of such date; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(ii) There exist no Events of Default or events that with the passage of time would reasonably be expected to result in an Event of Default.

SECTION 4 Representations and Warranties. To induce the Lenders to enter into this Amendment, the Borrower hereby confirms, as of the date hereof, (a) that the representations and warranties made by it in Section 5 of the Loan Agreement and in the other Loan Documents are true and correct in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; (b) that there has not been and there does not exist a Material Adverse Change; and (c) that the information included in the Perfection Certificate delivered to Collateral Agent on the Effective Date (as supplemented on the First Amendment Effective Date, the Second Amendment Effective Date, and the Fourth Amendment Effective Date) remains true and correct. For the purposes of this Section 4, each reference in Section 5 of the Loan Agreement to “this Agreement,” and the words “hereof,” “herein,” “hereunder,” or words of like import in such Section, shall mean and be a reference to the Loan Agreement as amended by this Amendment.

SECTION 5 Miscellaneous.

(a) **Loan Documents Otherwise Not Affected; Reaffirmation.** Except as expressly amended pursuant hereto or referenced herein, the Loan Agreement and the other Loan Documents shall remain unchanged and in full force and effect and are hereby ratified and confirmed in all respects. The Lenders’ and Collateral Agent’s execution and delivery of, or acceptance of, this Amendment shall not be deemed to create a course of dealing or otherwise create any express or implied duty by any of them to provide any other or further amendments, consents or waivers in the future. The Borrower hereby reaffirms the grant of security under Section 4.1 of the Loan Agreement and hereby reaffirms that such grant of security in the Collateral secures all Obligations under the Loan Agreement, including without limitation any Term Loans funded on or after the Fourth Amendment Effective Date, as of the date hereof.

(b) **Conditions.** For purposes of determining compliance with the conditions specified in Section 3, each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless Collateral Agent shall have received notice from such Lender prior to the Fourth Amendment Effective Date specifying its objection thereto.

(c) **Release.** In consideration of the agreements of Collateral Agent and each Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower, on behalf of itself and its successors, assigns, and other legal representatives, hereby fully, absolutely, unconditionally and irrevocably releases, remises and forever discharges Collateral Agent and each Lender, and its successors and assigns, and its present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Agent, Lenders and all such other persons being hereinafter referred to collectively as the “**Releasees**” and individually as a “**Releasee**”), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which the Borrower, or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, including, without limitation, for or on account of, or in relation to, or in any way in connection with the Loan Agreement, or any of the other Loan Documents or transactions thereunder or related thereto. The Borrower understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release. The Borrower agrees that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

(d) **No Reliance.** The Borrower hereby acknowledges and confirms to Collateral Agent and the Lenders that the Borrower is executing this Amendment on the basis of its own investigation and for its own reasons without reliance upon any agreement, representation, understanding or communication by or on behalf of any other Person.

(e) [Reserved].

(f) **Binding Effect.** This Amendment binds and is for the benefit of the successors and permitted assigns of each party.

(g) **Governing Law.** **THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAWS OTHER THAN THE LAWS OF THE STATE OF NEW YORK), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, REGARDLESS OF THE LOCATION OF THE COLLATERAL.**

(h) **Complete Agreement; Amendments.** This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements with respect to such subject matter. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

(i) **Severability of Provisions.** Each provision of this Amendment is severable from every other provision in determining the enforceability of any provision.

(j) **Counterparts.** This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Amendment. Delivery of an executed counterpart of a signature page of this Amendment by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

(k) **Loan Documents.** This Amendment and the documents related thereto shall constitute Loan Documents.

(l) **Electronic Execution of Certain Other Documents.** The words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Amendment and the transactions contemplated hereby (including without limitation assignments, assumptions, amendments, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Collateral Agent, 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.

[Balance of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment, as of the date first above written.

BORROWER:

NEURONETICS, INC.,
as Borrower

By: /s/ Stephen Furlong

Title: EVP, Chief Financial Officer and Treasurer

[Signature Page to Fourth Amendment to Loan and Security Agreement]

COLLATERAL AGENT AND LENDER:

SLR INVESTMENT CORP.,
as Collateral Agent and a Lender

By: /s/ Anthony Storino

Name: Anthony Storino

Title: Authorized Signatory

[Signature Page to Fourth Amendment to Loan and Security Agreement]

LENDERS:

SUNS SPV LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP PRIVATE CREDIT INCOME FUND SPV LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP PRIVATE CREDIT INCOME BDC SPV LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

**SCP PRIVATE CORPORATE LENDING FUND SPV
LLC**

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP SF DEBT FUND L.P.

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP CAYMAN DEBT MASTER FUND SPV LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SLR CP SF DEBT FUND SPV LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

[Signature Page to Fourth Amendment to Loan and Security Agreement]

SCP PRIVATE CREDIT INCOME FUND L.P.

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP PRIVATE CREDIT INCOME BDC LLC

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP PRIVATE CORPORATE LENDING FUND L.P.

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

SCP CAYMAN DEBT MASTER FUND L.P.

By: /s/ Anthony Storino
Name: Anthony Storino
Title: Authorized Signatory

Exhibit A

Loan Agreement, as amended

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (as the same may be amended, restated, modified, or supplemented from time to time, this “**Agreement**”) dated as of March 2, 2020 (the “**Effective Date**”) among Solar Capital Ltd., a Maryland corporation with an office located at 500 Park Avenue, 3rd Floor, New York, NY 10022 (“**Solar**”), as collateral agent (in such capacity, together with its successors and assigns in such capacity, “**Collateral Agent**”), and the lenders listed on Schedule 1.1 hereof or otherwise a party hereto from time to time including Solar in its capacity as a Lender (each a “**Lender**” and collectively, the “**Lenders**”), and Neuronetics, Inc., a Delaware corporation with offices located at 3222 Phoenixville Pike, Malvern, Pennsylvania (individually and collectively, jointly and severally, “**Borrower**”), provides the terms on which the Lenders shall lend to Borrower and Borrower shall repay the Lenders. The parties agree as follows:

1. DEFINITIONS AND OTHER TERMS

1.1 Terms. Capitalized terms used herein shall have the meanings set forth in Section 1.4 to the extent defined therein. All other capitalized terms used but not defined herein shall have the meaning given to such terms in the Code. Any accounting term used but not defined herein shall be construed in accordance with GAAP and all calculations shall be made in accordance with GAAP. If at any time any change in GAAP would affect the computation of any financial requirement set forth in any Loan Document, and either Borrower or the Collateral Agent shall so request, the Collateral Agent and Borrower shall negotiate in good faith to amend such requirement to preserve the original intent thereof in light of such change in GAAP; provided, that, until so amended, such requirement shall continue to be computed in accordance with GAAP prior to such change therein. For the avoidance of doubt, leases shall be classified and accounted for on a basis consistent with GAAP as in effect on the Effective Date (which shall include FASB ASC 842) for all purposes of this agreement. The term “financial statements” shall include the accompanying notes and schedules.

1.2 Section References. Any section, subsection, schedule or exhibit references are to this Agreement unless otherwise specified.

1.3 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.

1.4 Definitions. The following terms are defined in the Sections or subsections referenced opposite such terms:

“ Agreement ”	Preamble
“ Approved Lender ”	Section 12.1
“ Borrower ”	Preamble
“ Claims ”	Section 12.2
“ Collateral Agent ”	Preamble
“ Collateral Agent Report ”	Exhibit B, Section 5
“ Communications ”	Section 10
“ Connection Income Taxes ”	Exhibit C, Section 1
“ Default Rate ”	Section 2.3(b)
“ Effective Date ”	Preamble
“ Event of Default ”	Section 8

“Excluded Taxes”	Exhibit C, Section 1
“FATCA”	Exhibit C, Section 1
“Indemnified Person”	Section 12.2
“Indemnified Taxes”	Exhibit C, Section 1
“Lender” and “Lenders”	Preamble
“Lender Transfer”	Section 12.1
“New Subsidiary”	Section 6.10
“Non-Funding Lender”	Exhibit B, Section 10(c)(ii)
“Open Source Licenses”	Section 5.2(f)
“Other Connection Taxes”	Exhibit C, Section 1
“Other Lender”	Exhibit B, Section 10(c)(ii)
“Other Taxes”	Exhibit C, Section 1
“Perfection Certificate” and “Perfection Certificates”	Section 5.1
“Participant Register”	Section 12.1
“Recipient”	Exhibit C, Section 1
“Register”	Section 12.1
“Solar”	Preamble
“Term A Loan”	Section 2.2(a)(i)
“Term B Loan”	Section 2.2(a)(ii)
“Term C Loan”	Section 2.2(a)(iii)
“Termination Date”	Exhibit B, Section 8
“Term Loan”	Section 2.2(a)(iii)
“Transfer”	Section 7.1
“U.S. Tax Compliance Certificate”	Exhibit C, Section 7(b)(ii)(C)
“Withholding Agent”	Exhibit C, Section 1

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

“Account” is any “account” as defined in the Code with such additions to such term as may hereafter be made under the Code, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

“Account Debtor” is any “account debtor” as defined in the Code with such additions to such term as may hereafter be made under the Code.

“ACH Letter” is ACH debit authorization in the form of Exhibit I hereto.

“Affiliate” of any Person is a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“Amortization Date” is March 1, 2026.

“Anti-Terrorism Laws” are any laws, rules, regulations or orders relating to terrorism or money laundering, including without limitation Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

“**Applicable Rate**” means the greater of (a) 3.95% and (b) SOFR for a term of one month, which determination by Collateral Agent shall be conclusive in the absence of manifest error.

“**Approved Fund**” is any (i) investment company, fund, trust, securitization vehicle or conduit that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business or (ii) any Person (other than a natural person) which temporarily warehouses loans for any Lender or any entity described in the preceding clause (i) and that, with respect to each of the preceding clauses (i) and (ii), is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) a Person (other than a natural person) or an Affiliate of a Person (other than a natural person) that administers or manages a Lender.

“**Blocked Person**” is any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) a Person that is named a “specially designated national” or “blocked person” on the most current list published by OFAC or other similar list.

“**Borrower’s Books**” are Borrower’s or any of its Subsidiaries’ books and records including ledgers, federal, state, local and foreign tax returns, records regarding Borrower’s or its Subsidiaries’ assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Business Day**” is any day that is not a Saturday, Sunday or a day on which commercial banks in New York, New York are required or authorized to be closed.

“**Cash Equivalents**” are (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc.; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc., (c) certificates of deposit maturing no more than one (1) year after issue provided that the account in which any such certificate of deposit is maintained is subject to a Control Agreement in favor of Collateral Agent, and (d) any money market or similar funds that exclusively hold any of the foregoing.

“**Cash Reserve Account**” shall have the meaning given to it in the HCA Agreement.

“**Capital Lease**” means, as applied to any Person, any lease of any property by that Person as lessee which, in accordance with GAAP, is required to be accounted for as a finance lease on the balance sheet of that Person.

“**Code**” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of New York; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Collateral Agent’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term “Code” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“**Collateral**” is any and all properties, rights and assets of Borrower described on Exhibit A.

“**Collateral Account**” is any Deposit Account, Securities Account, or Commodity Account, or any other bank account maintained by Borrower or any Subsidiary at any time.

“**Collateral Agent**” is Solar, not in its individual capacity, but solely in its capacity as collateral agent on behalf of and for the ratable benefit of the Secured Parties.

“**Commitment Percentage**” is, as to a Lender, the percentage set forth opposite such Lender’s name in Schedule 1.1, as amended from time to time.

“**Commodity Account**” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made under the Code.

“**Compliance Certificate**” is that certain certificate in substantially the form attached hereto as Exhibit E.

“**Contingent Obligation**” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith in accordance with GAAP; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“**Control Agreement**” is any control agreement entered into among the depository institution at which Borrower or any of its Subsidiaries maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower or any of its Subsidiaries maintains a Securities Account or a Commodity Account, Borrower or such Subsidiary, as applicable, and Collateral Agent pursuant to which Collateral Agent, for the ratable benefit of the Secured Parties, obtains “control” (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

“**Copyrights**” are any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

“**Deposit Account**” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made under the Code.

“**Designated Deposit Account**” is (x) as of the Fourth Amendment Effective Date, Borrower’s Deposit Account, account number XXXXXX[***], maintained at Silicon Valley Bank, and (y) upon the satisfaction of the condition set forth in Section 3.6(e), Borrower’s Deposit Account, account number XXXXXX[***], maintained at PNC Bank, National Association.

“**Dollars**,” “**dollars**” and “**\$**” each mean lawful money of the United States.

“Eligible Assignee” is (i) a Lender, (ii) an Affiliate of a Lender, (iii) an Approved Fund and (iv) any commercial bank, savings and loan association or savings bank or any other entity which is an “accredited investor” (as defined in Regulation D under the Securities Act of 1933, as amended) and which extends credit or buys loans as one of its businesses, including insurance companies, mutual funds, lease financing companies and commercial finance companies, in each case, which either (A) has a rating of BBB or higher from Standard & Poor’s Rating Group and a rating of Baa2 or higher from Moody’s Investors Service, Inc. at the date that it becomes a Lender or (B) has total assets in excess of One Billion Dollars (\$1,000,000,000.00); provided that notwithstanding the foregoing, “Eligible Assignee” shall not include, unless an Event of Default has occurred and is continuing, (i) Borrower or any of Borrower’s Affiliates or Subsidiaries, (ii) a then-current direct competitor of Borrower, as determined by Collateral Agent in its reasonable discretion, (iii) vulture funds or distressed debt funds, as determined by Collateral Agent in its reasonable discretion, and (iv) natural persons. Notwithstanding the foregoing, (x) in connection with any assignment by a Lender as a result of a forced divestiture at the request of any regulatory agency, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party and (y) in connection with a Lender’s own financing or securitization transactions, the restrictions set forth herein shall not apply and Eligible Assignee shall mean any Person or party providing such financing or formed to undertake such securitization transaction and any transferee of such Person or party upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; provided that no such sale, transfer, pledge or assignment under this clause (y) shall release such Lender from any of its obligations hereunder or substitute any such Person or party for such Lender as a party hereto until Collateral Agent shall have received and accepted an effective assignment agreement from such Person or party in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee as Collateral Agent reasonably shall require.

“Equipment” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made under the Code, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.

“Equity Interests” means, with respect to any Person, collectively, any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in such Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire (by purchase, conversion, dividend, distribution or otherwise) any of the foregoing (and all other rights, powers, privileges, interests, claims and other property in any manner arising therefrom or relating thereto).

“ERISA” is the Employee Retirement Income Security Act of 1974, as amended, and its regulations.

“Excluded Accounts” means (i) Deposit Accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of Borrower’s, or any Guarantor’s, employees and identified to Collateral Agent by Borrower as such in the Perfection Certificate, provided that the amount deposited therein shall not exceed the amount reasonably expected to be due and payable for the next two (2) succeeding pay periods and (ii) the Cash Reserve Account.

“Exigent Circumstance” means any event or circumstance that, in the reasonable judgment of Collateral Agent, imminently threatens the ability of Collateral Agent to realize upon all or any material portion of the Collateral, such as, without limitation, fraudulent removal, concealment, or abscondment thereof, destruction or material waste thereof, or failure of Borrower or any of its Subsidiaries after reasonable demand to maintain or reinstate adequate casualty insurance coverage, or which, in the judgment of Collateral Agent, could reasonably be expected to result in a material diminution in value of the Collateral.

“**Exit Fee Agreement**” is that certain Exit Fee Agreement, dated as of the Effective Date, as amended by the First Amendment to Exit Fee Agreement, dated as of the Fourth Amendment Effective Date, by and among Collateral Agent, as agent, Borrower and the Lenders, as amended, amended and restated, supplemented or otherwise modified from time to time.

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

“**Fee Letter**” means that certain Fee Letter dated as of the Effective Date, between Borrower and Solar, as amended and restated as of the Fourth Amendment Effective Date and as may be further amended as amended, amended and restated, supplemented or otherwise modified from time to time.

“**First Amendment**” means that certain First Amendment to Loan and Security Agreement, dated as of the First Amendment Effective Date, by and among Borrower, Collateral Agent and Lender.

“**First Amendment Effective Date**” means April 21, 2020.

“**Foreign Currency**” means lawful money of a country other than the United States.

“**Fourth Amendment**” means that certain Fourth Amendment to Loan and Security Agreement, dated as of the Fourth Amendment Effective Date, by and among Borrower, Collateral Agent and Lender.

“**Fourth Amendment Effective Date**” means March 29, 2023.

“**Fourth Amendment Exit Fee Agreement**” is that certain Fourth Amendment Exit Fee Agreement, dated as of the Fourth Amendment Effective Date, by and among Collateral Agent, as agent, Borrower and the Lenders, as amended, amended and restated, supplemented or otherwise modified from time to time.

“**Fourth Draw Conditions**” are satisfaction of each of the following: (a) no Event of Default has occurred and (b) Borrower has achieved Term D Loan Product Revenue Milestone.

“**Fourth Draw Period**” is the period commencing on the date occurring on or after the Second Amendment Effective Date in which Borrower satisfies the Fourth Draw Conditions and ending on the Third Amendment Effective Date.

“**Funding Date**” is any date on which a Term Loan is made to or on account of Borrower which shall be a Business Day.

“**GAAP**” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination, applied consistently with Borrower’s publicly filed financial statements.

“**General Intangibles**” are all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made under the Code, and includes without limitation, all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work, whether published or unpublished, any patents, trademarks, service marks and, to the extent permitted under applicable law, any applications therefor, whether registered or

not, any trade secret rights, including any rights to unpatented inventions, payment intangibles, royalties, contract rights, goodwill, franchise agreements, purchase orders, customer lists, route lists, telephone numbers, domain names, claims, income and other tax refunds, security and other deposits, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“**Governmental Approval**” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“**Governmental Authority**” is any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof (including the FDA) or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state or locality of the United States, the United States, or a foreign government.

“**Guarantor**” is any Person providing a Guaranty in favor of Collateral Agent for the benefit of the Secured Parties (including without limitation pursuant to Section 6.10).

“**Guaranty**” is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

“**HCA**” means Hitachi Capital America Corp., a Delaware corporation.

“**HCA Agreement**” means that certain Vendor Program Agreement, dated as of March 27, 2020, by and between Borrower and HCA, as in effect on the First Amendment Effective Date.

“**Indebtedness**” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, where such deferred purchase price becomes due and payable solely upon the passage of time or that has become due and payable and is not satisfied within 60 days thereafter; (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) Capital Lease obligations, (d) non-contingent obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit, banker’s acceptance or similar instrument, (e) equity securities of such Person subject to repurchase or redemption other than at the sole option of such Person, (f) obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person, (g) “earnouts”, purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts, (h) all Indebtedness of others guaranteed by such Person, (i) off-balance sheet liabilities and/or pension plan or multiemployer plan liabilities of such Person, (j) obligations arising under non-compete agreements, and (k) Contingent Obligations. For the avoidance of doubt, “Indebtedness” shall not include leases supporting obligations related to the rental of real property and improvements thereon.

“**Insolvency Proceeding**” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions or proceedings seeking reorganization, arrangement, or other relief.

“**Insolvent**” means not Solvent.

“**Intellectual Property**” means all of Borrower’s or any of its Subsidiaries’ right, title and interest in and to the following:

- (a) its Copyrights, Trademarks and Patents;
- (b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals;
- (c) any and all source code;
- (d) any and all design rights which may be available to Borrower;
- (e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and
- (f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

“**Intellectual Property Security Agreement**” means that certain Intellectual Property Security Agreement dated as of the Effective Date between Borrower and Collateral Agent, as the same may from time to time be amended, restated, modified or otherwise supplemented.

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

“**Inventory**” is all “inventory” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made under the Code, and includes without limitation all merchandise, raw materials, parts, supplies, packing and shipping materials, work in process and finished products, including without limitation such inventory as is temporarily out of any Person’s custody or possession or in transit and including any returned goods and any documents of title representing any of the above.

“**Investment**” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

“**IRS**” means the United States Internal Revenue Service.

“**Key Person**” is each of Borrower’s (i) President and Chief Executive Officer, who is Keith Sullivan as of the Fourth Amendment Effective Date and (ii) Chief Financial Officer, who is Steve Furlong as of the Fourth Amendment Effective Date.

“**Knowledge**” means the actual knowledge, after reasonable investigation, of the Responsible Officers.

“**Lender**” is any one of the Lenders.

“**Lenders**” are the Persons identified on Schedule 1.1 hereto and each assignee that becomes a party to this Agreement pursuant to Section 12.1.

“**Lenders’ Expenses**” are (a) all reasonable audit fees and expenses, costs, and expenses (including reasonable and invoiced out-of-pocket attorneys’ fees and expenses, as well as appraisal fees, fees incurred on account of lien searches, inspection fees, and filing fees) for preparing, amending, negotiating and administering the Loan Documents, and (b) all fees and expenses (including reasonable and invoiced out-of-pocket attorneys’ fees and expenses, as well as appraisal fees, fees incurred on account of lien searches, inspection fees, and filing fees) for defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred by Collateral Agent and/or the Lenders in connection with the Loan Documents.

“**Lien**” is a claim, mortgage, deed of trust, levy, charge, pledge, security interest, or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“**Loan Documents**” are, collectively, this Agreement, the Fee Letter, the Fourth Amendment Exit Fee Agreement, each Control Agreement, the Exit Fee Agreement, the Intellectual Property Security Agreement, the Perfection Certificates, each Compliance Certificate, the ACH Letter, each Loan Payment Request Form, any Guarantees, any subordination agreements, any note, or notes or guaranties executed by Borrower or any other Person, any agreements creating or perfecting rights in the Collateral (including all insurance certificates and endorsements, landlord consents and bailee consents) and any other present or future agreement entered into by Borrower, any Guarantor or any other Person for the benefit of the Lenders and Collateral Agent, as applicable, in connection with this Agreement; all as amended, restated, or otherwise modified.

“**Loan Payment Request Form**” is that certain form attached hereto as Exhibit D.

“**Loan Party**” means, individually, and “**Loan Parties**” means, collectively, Borrower and any Guarantors.

“**Loss Reserve**” shall have the meaning given to it in the HCA Agreement.

“**Material Adverse Change**” is (a) a material adverse change in the business, operations or condition (financial or otherwise) of Borrower and its Subsidiaries, when taken as a whole; or (b) a material impairment of (i) the prospect of repayment of any portion of the Obligations, (ii) the legality, validity or enforceability of any Loan Document, (iii) the rights and remedies of Collateral Agent or Lenders under any Loan Document except as the result of the action or inaction of the Collateral Agent or Lenders or (iv) the validity, perfection or priority of any Lien in favor of Collateral Agent for the benefit of the Secured Parties on any of the Collateral except as the result of the action or inaction of the Collateral Agent or Lenders.

“**Material Agreement**” is any license, agreement or other contractual arrangement whereby Borrower or any of its Subsidiaries is reasonably likely to be required to transfer, either in-kind or in cash, prior to the Maturity Date, assets or property valued (book or market) at more than One Million Dollars (\$1,000,000.00) in the aggregate per year.

“**Maturity Date**” is, for each Term Loan, March 29, 2028.

“**Net Product Revenue**” means, with respect to Borrower and its Subsidiaries who are Guarantors (including Subsidiaries acquired by Borrower who become Guarantors in connection with a Permitted Investment), product revenue (determined under GAAP) of Borrower’s and such Subsidiaries’ sale (either directly or through a lease or distribution arrangement and solely to the extent reported as revenue on Borrower’s consolidated financial statements) to non-Affiliates in the ordinary course of business of its products and related services directly sold in connection with such products, including, for the avoidance of doubt revenue in connection with NeuroStar® Advanced Therapy Systems and upgrades thereto, NeuroStar Treatment Sessions (whether on a “per click” or capitated basis), TrakStar Cloud and service contracts, but excluding, in each case, revenue (a) in connection with any one time or extraordinary transactions, (b) attributable to licensing, collaboration or similar arrangements (including for the avoidance of doubt Permitted Licenses), (c) related to the sale of assets other than products in the ordinary course of business, (d) any revenue related to the leasing or distribution of products and services other than in each

case the sale of inventory and related services through leasing or distribution arrangements that would otherwise constitute ordinary course of business sales of such products and services, (e) from any royalty, collaboration, commission or similar arrangement, and (f) without duplication, any other transaction (unless specifically specified in this proviso) that would not be an arms-length sales transaction entered into in the ordinary course of business. For the avoidance of doubts, Transfers of products and services to HCA under the HCA Agreement are deemed to be a sale to a Non-Affiliate in the ordinary course of business.

“**Obligations**” are all of Borrower’s obligations to pay when due any debts, principal, interest, Lenders’ Expenses, the Prepayment Premium, all fees under the Fee Letter, the Exit Fee Agreement, and the Fourth Amendment Exit Fee Agreement, and any other amounts Borrower owes the Collateral Agent or the Lenders now or later, in connection with, related to, following, or arising from, out of or under, this Agreement or, the other Loan Documents, or otherwise, and including interest accruing after Insolvency Proceedings begin (whether or not allowed) and debts, liabilities, or obligations of Borrower assigned to the Lenders and/or Collateral Agent in connection with this Agreement and the other Loan Documents, and the performance of Borrower’s duties under the Loan Documents.

“**OFAC**” is the U.S. Department of Treasury Office of Foreign Assets Control.

“**OFAC Lists**” are, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

“**Operating Documents**” are, for any Person, such Person’s formation documents, as certified by the Secretary of State (or equivalent agency) of such Person’s jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Fourth Amendment Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“**Patents**” means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, re-examination certificates, utility models, extensions and continuations-in-part of the same.

“**Paycheck Protection Program**” means the Paycheck Protection Program established pursuant to Title I (Keeping American Workers Paid and Employed Act) of the Coronavirus Aid, Relief, and Economic Security Act enacted on March 27, 2020, as amended.

“**Payment Date**” is the first (1st) calendar day of each calendar month, commencing on April 1, 2020.

“**Permitted Indebtedness**” is:

- (a) Borrower’s Indebtedness to the Lenders and Collateral Agent under this Agreement and the other Loan Documents;
- (b) Indebtedness existing on the Effective Date and disclosed on the Perfection Certificate;
- (c) Subordinated Debt;
- (d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness consisting of Capital Lease obligations and purchase money Indebtedness, in each case incurred by Borrower or any of its Subsidiaries to finance the acquisition, repair, improvement or construction of fixed or capital assets of such person, provided that (i) the aggregate outstanding principal amount of all such Indebtedness does not exceed One Hundred Thousand Dollars (\$100,000.00) at any time and (ii) the principal amount of such Indebtedness does not exceed the lower of the cost or fair market value of the property so acquired or built or of such repairs or improvements financed with such Indebtedness (each measured at the time of such acquisition, repair, improvement or construction is made);

(f) Indebtedness by any Loan Party to any other Loan Party.

(g) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of Borrower's business;

(h) unsecured Indebtedness in an aggregate amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) at any time incurred under insurance premium financing in the ordinary course of business;

(i) Indebtedness in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) incurred under a standby letter of credit issued on Borrower's behalf in favor of Borrower's landlord;

(j) Indebtedness in connection with corporate credit cards, purchasing cards or bank card products in an aggregate amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) at any time; and

(k) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (a) through (f) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose materially more burdensome terms upon Borrower, or its Subsidiary, as the case may be.

(l) to the extent constituting Indebtedness, obligations to fund the Loss Reserve pursuant to the terms of the HCA Agreement;

(m) to the extent constituting Indebtedness, the indemnification and repurchase obligations of Borrower in favor of HCA pursuant to Section 11(a) of the HCA Agreement; and

(n) loans under Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) under the Paycheck Protection Program; provided that (i) such loans shall be unsecured and shall not contain any terms or conditions that are adverse to Collateral Agent's and the Lenders' rights hereunder, including with respect to collateral, priority, preference and repayment terms and (ii) any material modification to such loans adverse to the Collateral Agent or the Lenders shall be subject to Collateral Agent's written approval.

"Permitted Investments" are:

(a) Investments disclosed on the Perfection Certificate and existing on the Effective Date;

(b) (i) Investments consisting of cash and Cash Equivalents, and (ii) any Investments permitted by Borrower's investment policy, as amended from time to time, provided that such investment policy (and any such amendment thereto) has been approved in writing by Collateral Agent;

(c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(d) Investments consisting of Deposit Accounts in which Collateral Agent has a perfected Lien (subject to the terms of this Agreement) for the ratable benefit of the Secured Parties;

(e) Investments in connection with Transfers permitted by Section 7.1;

(f) 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 Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's board of directors; not to exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate for (i) and (ii) in any fiscal year;

(g) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(h) 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; provided that this paragraph (h) shall not apply to Investments of Borrower in any Subsidiary;

(i) non-cash Investments in joint ventures or strategic alliances in the ordinary course of Borrower's business consisting of the non-exclusive licensing of technology, the development of technology or the providing of technical support; provided that any cash Investments by Borrower do not exceed Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate in any fiscal year;

(j) Investments by any Loan Party in any other Loan Party;

(k) repurchases of capital stock of former employees, directors, officers or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of any such repurchase and would not exist after giving effect to any such repurchase; provided that the aggregate amount of all such repurchases does not exceed Two Hundred Fifty Thousand Dollars (\$250,000) in any fiscal year;

(l) Investments consisting of loans pursuant to one or more promissory notes to Greenbrook TMS Inc., an Ontario corporation (or a wholly-owned subsidiary thereof) in an aggregate original principal amount not to exceed Six Million Dollars (\$6,000,000); provided, that in connection with any such Investment, Collateral Agent shall have received possession of all original notes or other instruments evidencing such Investment, together with all allonges and any other documents reasonably requested by Collateral Agent; and

(m) other Investments in an aggregate amount at any time not to exceed One Hundred Fifty Thousand Dollars (\$150,000).

"Permitted Licenses" are (A) licenses of over-the-counter software that is commercially available to the public, and (B) non-exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the ordinary course of business, provided, that, with respect to each such license described in clause (B), the license constitutes an arms-length transaction, the terms of which, on their face, do not provide for a sale or assignment of any Intellectual Property and do not restrict the ability of Borrower or any of its Subsidiaries, as applicable, to pledge, grant a security interest in or lien on, or assign or otherwise Transfer any Intellectual Property, and (C) exclusive licenses for the use of the Intellectual Property of Borrower or any of its Subsidiaries entered into in the ordinary course of business, provided, that, with respect to each such license described in this clause (C), the license (i) constitutes an arms-length transaction, the terms of which, on their face, do not provide for a sale or assignment of any

Intellectual Property and do not restrict the ability of Borrower or any of its Subsidiaries, as applicable, to pledge, grant a security interest in or lien on, or assign or otherwise Transfer any Intellectual Property, (ii) is limited in territory with respect to a specific geographic country or region (i.e. Japan, Germany, northern China) outside of the United States, and (iii) if requested by Collateral Agent, Borrower has used commercially reasonable efforts to obtain the consent and acknowledgement of the counterparty to such license for the collateral assignment of such license to the Collateral Agent for the benefit of the Lenders.

“Permitted Liens” are:

(a) Liens existing on the Effective Date and disclosed on the Perfection Certificate or arising under this Agreement and the other Loan Documents;

(b) Liens for Taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith by appropriate proceedings diligently conducted and for which Borrower maintains adequate reserves on Borrower’s Books in accordance with GAAP, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code and the Treasury Regulations adopted thereunder;

(c) Liens securing Indebtedness permitted under clause (e) of the definition of “Permitted Indebtedness,” provided that (i) such liens exist prior to the acquisition of, or attach substantially simultaneous with, or within twenty (20) days after the, acquisition, lease, repair, improvement or construction of, such property financed or leased by such Indebtedness and (ii) such liens do not extend to any property of Borrower other than the property (and proceeds thereof) acquired, leased or built, or the improvements or repairs, financed by such Indebtedness;

(d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed Five Hundred Thousand Dollars (\$500,000.00), and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(e) Liens to secure payment of workers’ compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(f) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(g) leases or subleases of real property granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the ordinary course of Borrower’s business (or, if referring to another Person, in the ordinary course of such Person’s business), if the leases, subleases, licenses and sublicenses do not prohibit granting Collateral Agent or any Lender a security interest therein;

(h) banker’s liens, rights of setoff and Liens in favor of financial institutions incurred in the ordinary course of business arising in connection with Borrower’s deposit accounts or securities accounts held at such institutions solely to secure payment of fees and similar costs and expenses and provided such accounts are maintained in compliance with Section 6.6(a) hereof;

- (i) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default under Section 8.4 or 8.7;
 - (j) deposits with landlords to secure performance of lease obligations, or to secure letters of credit in favor of landlords, not exceeding Two Hundred Fifty Thousand Dollars (\$250,000) in the aggregate at any given time; and
 - (k) Permitted Licenses.
 - (l) to the extent constituting a Lien, the interests granted by Borrower to HCA in the Cash Reserve Account pursuant to HCA Agreement.
- “Permitted Transfers”** means:
- (a) Transfers of Inventory in the ordinary course of business;
 - (b) Transfers of surplus, damaged, worn out or obsolete equipment that is, in the reasonable judgment of Borrower exercised in good faith, no longer economically practicable to maintain or useful in the ordinary course of business consistent with past practice, and Transfers of other properties or assets in lieu of any pending or threatened institution of any proceedings for the condemnation or seizure of such properties or assets or for the exercise of any right of eminent domain;
 - (c) to the extent constituting Transfers Permitted Liens, Permitted Indebtedness or Permitted Investments;
 - (d) Transfers of cash and Cash Equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents;
 - (e) Transfers between or among Loan Parties, provided that, with respect to any properties or assets constituting Collateral under the Loan Documents, any and all steps as may be required to be taken in order to create and maintain a first priority security interest in and Lien upon such properties and assets in favor and for the benefit of Collateral Agent and the other Secured Parties are taken contemporaneously with the completion of any such transfer;
 - (f) the sale or issuance of Equity Interests of any Subsidiary of Borrower to any Loan Party or Subsidiary that does not violate Section 7.2 or any other term herein or in any Loan Document, provided, that any such sale or issuance by a Loan Party shall be to another Loan Party;
 - (g) any abandonment, cancellation, non-renewal or discontinuance of use or maintenance of Intellectual Property that Borrower reasonably determines in good faith (i) is no longer economically practicable to maintain or useful in the ordinary course of business consistent with past practice and that (ii) would not reasonably be expected to be adverse to the rights, remedies and benefits available to, or conferred upon, Collateral Agent and Lenders under any Loan Document in any material respect; and
 - (h) other Transfers of assets (other than Intellectual Property) not to exceed One Hundred Fifty Thousand Dollars (\$150,000) in the aggregate.
 - (i) Transfers of Inventory to HCA pursuant to the HCA Agreement; and
 - (j) Transfers of Cash to fund the Cash Reserve Account pursuant to the terms of the HCA Agreement.

“**Person**” is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

“**Prepayment Premium**” is, with respect to any Term Loan subject to prepayment, refinancing, substitution or replacement prior to the Maturity Date, whether by mandatory or voluntary prepayment, acceleration or otherwise (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), an additional fee payable to the Lenders in amount equal to:

(a) for a prepayment, refinancing, substitution or replacement made on or after the Fourth Amendment Effective Date through and including the first anniversary of the Fourth Amendment Effective Date, three percent (3.00%) of the principal amount of such Term Loan prepaid;

(b) for a prepayment, refinancing, substitution or replacement made after the date which is after the first anniversary of the Fourth Amendment Effective Date through and including the second anniversary of the Fourth Amendment Effective Date, two percent (2.00%) of the principal amount of the Term Loans prepaid; and

(c) for a prepayment, refinancing, substitution or replacement made after the date which is after the second anniversary of the Fourth Amendment Effective Date and prior to the Maturity Date, one percent (1.00%) of the principal amount of the Term Loans prepaid.

Notwithstanding the foregoing, Solar agrees to waive the Prepayment Premium if Solar or any Affiliate of Solar (in their sole and absolute discretion) agree in writing to refinance the Term Loans prior to the Maturity Date.

“**Product Revenue Milestone**” is the achievement, on or prior to May 20, 2021, of Net Product Revenue greater than or equal to [***], calculated on a trailing twelve-month basis, subject to verification (including supporting documents) reasonably satisfactory to Collateral Agent.

“**Property**” means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

“**Pro Rata Share**” is, as of any date of determination, with respect to each Lender, a percentage (expressed as a decimal, rounded to the ninth decimal place) determined by dividing the outstanding principal amount of Term Loans held by such Lender by the aggregate outstanding principal amount of all Term Loans.

“**Qualified Cash**” means the amount of Borrower’s cash and Cash Equivalents held in accounts subject to a Control Agreement in favor of Collateral Agent.

“**Qualified Cash A/P Amount**” means the amount of Borrower’s accounts payable that have not been paid within ninety (90) days from the invoice date of the relevant account payable (other than accounts that are subject to good faith disputes as permitted herein and for which Borrower maintains adequate reserves in accordance with GAAP).

“**Registered Organization**” is any “registered organization” as defined in the Code with such additions to such term as may hereafter be made under the Code.

“Registration” means any registration, authorization, approval, license, permit, clearance, certificate, and exemption issued or allowed by the FDA or state pharmacy licensing authorities (including, without limitation, new drug applications, abbreviated new drug applications, biologics license applications, investigational new drug applications, over-the-counter drug monograph, device pre-market approval applications, device pre-market notifications, investigational device exemptions, product recertifications, manufacturing approvals, registrations and authorizations, CE Marks, pricing and reimbursement approvals, labeling approvals or their foreign equivalent, controlled substance registrations, and wholesale distributor permits).

“Regulatory Action” means an administrative, regulatory, or judicial enforcement action, proceeding, investigation or inspection, FDA Form 483 notice of inspectional observation, warning letter, untitled letter, other notice of violation letter, recall, seizure, Section 305 notice or other similar written communication, injunction or consent decree, issued by the FDA or a federal or state court.

“Related Persons” means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor and other consultants and agents of or to such Person or any of its Affiliates.

“Relevant Governmental Body” means the Federal Reserve Board, the Federal Reserve Bank of New York, and/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.

“Required Lenders” means (i) for so long as all of the Persons that are Lenders on the Fourth Amendment Effective Date (each an **“Original Lender”**) have not assigned or transferred any of their interests in their Term Loan other than to an Affiliate of such Lender, Lenders holding one hundred percent (100%) of the aggregate outstanding principal balance of the Term Loan, or (ii) at any time from and after any Original Lender has assigned or transferred any interest in its Term Loan, Lenders holding at least sixty six percent (66%) of the aggregate outstanding principal balance of the Term Loan and, in respect of this clause (ii), (A) each Original Lender that has not assigned or transferred any portion of its Term Loan, (B) each assignee or transferee of an Original Lender’s interest in the Term Loan, but only to the extent that such assignee or transferee is an Affiliate or Approved Fund of such Original Lender, and (C) any Person providing financing to any Person described in clauses (A) and (B) above; provided, however, that this clause (C) shall only apply upon the occurrence of a default, event of default or similar occurrence with respect to such financing.

“Requirement of Law” is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer” is any of the President, Chief Executive Officer, or Chief Financial Officer of Borrower acting alone.

“Second Amendment Effective Date” shall mean December 2, 2020

“Second Draw Conditions” are satisfaction of each of the following: (a) no Event of Default has occurred and (b) Borrower has achieved the Product Revenue Milestone.

“Second Draw Period” is the period commencing on the date occurring on or after the Second Amendment Effective Date in which Borrower satisfies the Second Draw Conditions and ending on the earlier of (a) June 20, 2021, and (b) the occurrence of an Event of Default.

“Secured Parties” means the Collateral Agent and the Lenders.

“**Securities Account**” is any “securities account” as defined in the Code with such additions to such term as may hereafter be made under the Code.

“**SOFR**” means the daily Secured Overnight Financing Rate provided by the Federal Reserve Bank of New York as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“**Solvent**” means, with respect to any Person, that (a) the fair salable value of such Person’s consolidated assets (including goodwill minus disposition costs) exceeds the fair value of such Person’s liabilities, (b) such Person is not left with unreasonably small capital giving effect to the transactions contemplated by this Agreement and the other Loan Documents, and (c) such Person is able to pay its debts (including trade debts) as they mature in the ordinary course (without taking into account any forbearance and extensions related thereto).

“**Subordinated Debt**” is indebtedness incurred by Borrower or any of its Subsidiaries subordinated to all Indebtedness of Borrower and/or its Subsidiaries to the Lenders (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Collateral Agent and the Required Lenders entered into between Collateral Agent, Borrower, and/or any of its Subsidiaries, and the other creditor), on terms acceptable to Collateral Agent and the Required Lenders.

“**Subsidiary**” is, with respect to any Person, any Person of which more than fifty percent (50%) of the voting stock or other Equity Interests is owned or controlled, directly or indirectly, by such Person or through one or more intermediaries.

“**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.

“**Term C Loan Product Revenue Milestone**” is the achievement, on or prior to December 20, 2021, of Net Product Revenue greater than or equal to [***], calculated on a trailing twelve-month basis, subject to verification (including supporting documents) reasonably satisfactory to Collateral Agent.

“**Term D Loan Product Revenue Milestone**” is the achievement, on or prior to June 20, 2022, of Net Product Revenue greater than or equal to [***], calculated on a trailing twelve-month basis, subject to verification (including supporting documents) reasonably satisfactory to Collateral Agent.

“**Term Loan Commitment**” is, for any Lender, the obligation of such Lender to make a Term Loan, up to the principal amount shown opposite such Lender’s name on Schedule 1.1.

“**Third Amendment**” means that certain Third Amendment to Loan and Security Agreement, dated as of the Third Amendment Effective Date, by and among the Borrower, Collateral Agent and Lender.

“**Third Amendment Effective Date**” means February 15, 2022.

“**Third Amendment Specified Default**” means the Specified Default (as defined in the Third Amendment).

“**Third Draw Conditions**” are satisfaction of each of the following: (a) no Event of Default has occurred and (b) Borrower has achieved the Term C Loan Product Revenue Milestone.

“**Third Draw Period**” is the period commencing on the date occurring on or after the Second Amendment Effective Date in which Borrower satisfies the Third Draw Conditions and ending on the earlier of (a) December 20, 2021, and (b) the occurrence of an Event of Default.

“**Trademarks**” means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower and each of its Subsidiaries connected with and symbolized by such trademarks.

“**Unqualified Opinion**” means an opinion on financial statements from an independent certified public accounting firm acceptable to Collateral Agent in its reasonable discretion which opinion shall not include any qualifications or any going concern limitations.

2. LOANS AND TERMS OF PAYMENT

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay each Lender, the outstanding principal amount of all Term Loans advanced to Borrower by such Lender and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

2.2 Term Loans.

(a) Availability. (i) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, to make term loans to Borrower on the Effective Date in an aggregate principal amount of Thirty Five Million Dollars (\$35,000,000.00) according to each Lender’s Term A Loan Commitment as set forth opposite such Lender’s name on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a “**Term A Loan**”, and collectively as the “**Term A Loans**”). After repayment, no Term A Loan may be re-borrowed.

(ii) Subject to the terms and conditions of this Agreement and the Fourth Amendment, the Lenders agree, severally and not jointly, to make term loans to Borrower on the Fourth Amendment Effective Date in an aggregate principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) according to each Lender’s Term B Loan Commitment as set forth on Schedule 1.1 hereto (such term loans are hereinafter referred to singly as a “**Term B Loan**” and collectively as the “**Term B Loans**”). After repayment, no Term B Loan may be re-borrowed.

(iii) Subject to the terms and conditions of this Agreement, the Lenders agree, severally and not jointly, after the Fourth Amendment Effective Date, in the Lenders’ sole and absolute discretion and subject to the Lenders’ credit approval, to make term loans to Borrower in an aggregate principal amount of up to Twenty Two Million Five Hundred Thousand Dollars (\$22,500,000) (such term loans are hereinafter referred to singly as a “**Term C Loan**” and collectively as the “**Term C Loans**”; each of the Term A Loans, the Term B Loans and the Term C Loans are hereinafter referred to collectively as the “**Term Loans**”). After repayment, no Term C Loan may be re-borrowed.

(b) Repayment. Borrower shall make monthly payments of interest only commencing on the first (1st) Payment Date following the Funding Date of each Term Loan, and continuing on the Payment Date of each successive month thereafter through and including the Payment Date immediately preceding the Amortization Date. Borrower agrees to pay, on the Funding Date of each Term Loan, any initial partial monthly interest payment otherwise due for the period between the Funding Date of such Term Loan and the first Payment Date after such Funding Date. Commencing on the Amortization Date, and continuing on the Payment Date of each month thereafter, Borrower shall (i) make monthly payments of interest, to each Lender in accordance with its Pro Rata Share, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon the effective rate of interest

applicable to the Term Loan, as determined in Section 2.3(a) plus (ii) make consecutive equal monthly payments of principal to each Lender in accordance with its Pro Rata Share, as calculated by Collateral Agent (which calculations shall be deemed correct absent manifest error) based upon: (A) the respective principal amounts of such Lender's Term Loans outstanding, and (B) a repayment schedule equal to the number of months remaining from the Amortization Date until the Maturity Date. All unpaid principal and accrued and unpaid interest with respect to each such Term Loan is due and payable in full on the Maturity Date. The Term Loans may only be prepaid in accordance with Sections 2.2(c) and 2.2(d).

(c) Mandatory Prepayments. If the Term Loans are accelerated (including, but not limited to, upon the occurrence of a bankruptcy or insolvency event (including the acceleration of claims by operation of law)), Borrower shall immediately pay to Lenders, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of: (i) all outstanding principal of the Term Loans plus accrued and unpaid interest thereon through the prepayment date, (ii) any fees payable under the Fee Letter by reason of such prepayment, (iii) the Prepayment Premium, plus (iv) all other Obligations that are due and payable, including Lenders' Expenses and interest at the Default Rate with respect to any past due amounts. Notwithstanding (but without duplication with) the foregoing, on the Maturity Date, if any fees payable under the Fee Letter by reason of such prepayments had not previously been paid in full in connection with the prepayment of the Term Loans in full, Borrower shall pay to each Lender in accordance with the terms of the Fee Letter. The Prepayment Premium shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. EACH BORROWER AND GUARANTOR EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION.

(d) Permitted Prepayment of Term Loans. Borrower shall have the option to prepay all, but not less than all of the outstanding principal balance of the Term Loans advanced by the Lenders under this Agreement, provided Borrower (i) provides written notice to Collateral Agent of its election to prepay the Term Loans at least five (5) Business Days prior to such prepayment, and (ii) pays to the Lenders on the date of such prepayment, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to the sum of (A) the outstanding principal of the Term Loans plus accrued and unpaid interest thereon through the prepayment date, (B) any fees payable under the Fourth Amendment Exit Fee Letter or under Section 2.4 hereof by reason of such prepayment, (C) the Prepayment Premium, plus (D) all other Obligations that are due and payable on such prepayment date, including any Lenders' Expenses and interest at the Default Rate (if any) with respect to any past due amounts.

2.3 Payment of Interest on the Term Loans.

(a) Interest Rate. Subject to Section 2.3(b), the principal amount outstanding under the Term Loans shall accrue interest at a floating per annum rate equal to the Applicable Rate in effect from time to time *plus* 5.65%, which aggregate interest rate shall be determined by Collateral Agent on the third Business Day prior to the Funding Date of the applicable Term Loan and on the date occurring on the first Business Day of the month prior to each Payment Date occurring thereafter, which interest shall be payable monthly in arrears in accordance with Sections 2.2(b) and 2.3(e). Except as set forth in Section 2.2(b), such interest shall accrue on each Term Loan commencing on, and including, the Funding Date of such Term Loan, and shall accrue on the principal amount outstanding under such Term Loan through and including the day on which such Term Loan is paid in full (or any payment is made hereunder).

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, all Obligations shall accrue interest at a fixed per annum rate equal to the rate that is otherwise applicable thereto plus five percentage points (5.00%) (the “Default Rate”). Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Collateral Agent.

(c) 360-Day Year. Interest shall be computed on the basis of a three hundred sixty (360) day year for the actual number of days elapsed.

(d) Debit of Accounts. Collateral Agent and each Lender may debit (or ACH) any deposit accounts, maintained by Borrower or any of its Subsidiaries, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes the Lenders under the Loan Documents when due. Any such debits (or ACH activity) shall not constitute a set-off.

(e) Payments. Except as otherwise expressly provided herein, all payments by Borrower under the Loan Documents shall be made to the respective Lender to which such payments are owed, at such Person’s office in immediately available funds on the date specified herein. Unless otherwise provided, interest is payable monthly on the Payment Date of each month. Payments of principal and/or interest received after 2:00 p.m. Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment is due the next Business Day and additional fees or interest, as applicable, shall continue to accrue until paid. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds. Collateral Agent may at its discretion and with prior notice of at least one (1) Business Day, initiate debit entries to the Borrower’s account as authorized on the ACH Letter (i) on each payment date of all Obligations then due and owing, (ii) at any time any payment due and owing with respect to Lender Expenses, and (iii) upon an Event of Default, any other Obligations outstanding.

2.4 Fees. Borrower shall pay to Collateral Agent and/or Lenders (as applicable) the following fees, which shall be deemed fully earned and non-refundable upon payment:

(a) Fee Letter. When due and payable under the terms of the Fee Letter, to Collateral Agent and each Lender, as applicable, the fees set forth in the Fee Letter.

(b) Prepayment Premium. The Prepayment Premium, when due hereunder, to be shared between the Lenders in accordance with their respective Pro Rata Shares. Borrower expressly agrees (to the fullest extent that each may lawfully do so) that: (i) the Prepayment Premium is reasonable and is the product of an arm’s length transaction between sophisticated business people, ably represented by counsel; (ii) the 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 Collateral Agent, Lenders and Borrower giving specific consideration in this transaction for such agreement to pay the Prepayment Premium and (iv) Borrower shall be estopped hereafter from claiming differently than as agreed to in this paragraph. Borrower expressly acknowledges that its agreement to pay the Prepayment Premium to Lenders as herein described is a material inducement to Lenders to provide the Term Loan Commitments and make the Term Loans.

(c) Lenders’ Expenses. All Lenders’ Expenses (including reasonable attorneys’ fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due.

2.5 Taxes; Increased Costs. Borrower, Collateral Agent and the Lenders each hereby agree to the terms and conditions set forth on Exhibit C attached hereto.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Term Loan. Each Lender's obligation to make a Term A Loan is subject to the condition precedent that Collateral Agent and each Lender shall consent to or shall have received, in form and substance satisfactory to Collateral Agent and each Lender, such documents, and completion of such other matters, as Collateral Agent and each Lender may reasonably deem necessary or appropriate, including, without limitation:

(a) copies of the Loan Documents, each duly executed by Borrower and each Subsidiary, as applicable, with originals to promptly follow;

(b) a completed Perfection Certificate for Borrower and each of its Subsidiaries;

(c) a duly executed Fee Letter;

(d) the Operating Documents and good standing certificates of Borrower and its Subsidiaries certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date;

(e) a certificate of Borrower and each Guarantor in form and substance reasonably satisfactory to the Collateral Agent executed by the Secretary (or similar officer) of Borrower with appropriate insertions and attachments, including with respect to (i) the Operating Documents of Borrower and each Guarantor (which Certificate of Incorporation of Borrower and each Guarantor shall be certified by the Secretary of State of the State of such entity's jurisdiction of formation) and (ii) the resolutions adopted by Borrower's and each Guarantor's board of directors or a committee thereof for the purpose of approving the transactions contemplated by the Loan Documents;

(f) certified copies, dated as of date no earlier than thirty (30) days prior to the Effective Date, of financing statement searches, as Collateral Agent shall request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Term Loan, will be terminated or released;

(g) a duly executed legal opinion of counsel to Borrower and each Guarantor dated as of the Effective Date;

(h) evidence satisfactory to Collateral Agent and the Lenders that the insurance policies required by Section 6.5 hereof are in full force and effect;

(i) a payoff letter in form and substance satisfactory to Agent and the Lenders evidencing the repayment in full and release of liens with respect to Borrower's existing Indebtedness;

(j) no later than five (5) days prior to the Effective Date, projections of Borrower's Net Product Revenue for 2020, 2021 and 2022 in form and substance acceptable to Collateral Agent; and

(k) payment of the fees payable under the terms of the Fee Letter and Lenders' Expenses then due as specified in Section 2.4 hereof.

3.2 Conditions Precedent to all Term Loans. The obligation of each Lender to extend each Term Loan, including the initial Term Loan, is subject to the following conditions precedent:

(a) receipt by Collateral Agent of an executed Loan Payment Request Form in the form of Exhibit D attached hereto;

(b) the representations and warranties in Section 5 hereof shall be true, accurate and complete in all material respects on the Funding Date of each Term Loan; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the funding of such Term Loan;

(c) there has not been any Material Adverse Change;

(d) no Event of Default or an event that with the passage of time could result in an Event of Default, shall exist; and

(e) payment of the fees and Lenders' Expenses then due as specified in Section 2.4 hereof.

3.3 Conditions Precedent to Term B Loans. The obligation of each Lender to extend the Term B Loan is subject to the following conditions precedent:

(a) a duly executed Fourth Amendment by Borrower and each Subsidiary, with original signature pages thereto to promptly follow;

(b) a duly executed Amended and Restated Fee Letter;

(c) an updated Perfection Certificate for Borrower and each of its Subsidiaries ;

(d) a duly executed Fourth Amendment Exit Fee Agreement;

(e) a duly executed First Amendment to Exit Fee Agreement;

(f) a duly executed, updated Intellectual Property Security Agreement by Borrower and each applicable Guarantor;

(g) [reserved];

(h) the Operating Documents and good standing certificates of Borrower and its Subsidiaries certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Fourth Amendment Effective Date;

(i) a certificate of Borrower and each Guarantor in form and substance reasonably satisfactory to the Collateral Agent executed by the Secretary (or similar officer) of Borrower with appropriate insertions and attachments, including with respect to (i) the Operating Documents of Borrower and each Guarantor (which Certificate of Incorporation of Borrower and each Guarantor shall be certified by the Secretary of State of the State of such entity's jurisdiction of formation) and (ii) the resolutions adopted by Borrower's and each Guarantor's board of directors or a committee thereof for the purpose of approving the transactions contemplated by the Fourth Amendment;

(j) certified copies, dated as of date no earlier than thirty (30) days prior to the Fourth Amendment Effective Date, of financing statement searches, as Collateral Agent shall request;

(k) a duly executed legal opinion of counsel to Borrower and each Guarantor dated as of the Fourth Amendment Effective Date; and

(l) payment of the fees and Lenders' Expenses then due as specified in Section 3 of the Fourth Amendment.

3.4 Covenant to Deliver. Borrower agrees to deliver to Collateral Agent and the Lenders each item required to be delivered to Collateral Agent under this Agreement as a condition precedent to funding any Term Loan. Borrower expressly agrees that a Term Loan made prior to the receipt by Collateral Agent or any Lender of any such item shall not constitute a waiver by Collateral Agent or any Lender of Borrower's obligation to deliver such item, and any such Term Loan in the absence of a required item shall be made in each Lender's sole discretion.

3.5 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan set forth in this Agreement, to obtain a Term Loan (other than the Term Loan funded on the Effective Date), Borrower shall notify the Lenders (which notice shall be irrevocable) by electronic mail, facsimile, or telephone by 12:00 noon New York City time three (3) Business Days prior to the date the Term Loan is to be made. Together with any such electronic, facsimile or telephonic notification, Borrower shall deliver to Collateral Agent by electronic mail or facsimile a completed Loan Payment Request Form executed by a Responsible Officer or his or her designee. The Collateral Agent may rely on any telephone notice given by a person whom Collateral Agent reasonably believes is a Responsible Officer or designee. On the Funding Date related to any Term Loan, each Lender shall credit and/or transfer (as applicable) to the Designated Deposit Account, an amount equal to its Term Loan Commitment in respect of such Term Loan.

3.6 Post-Closing Obligations. Notwithstanding any provision herein or in any other Loan Document to the contrary, to the extent not actually delivered on or prior to the Effective Date, Borrower will, and will cause of its applicable Subsidiaries to:

(a) deliver to Collateral Agent duly executed Control Agreements with respect to any Collateral Accounts maintained by Borrower or any of its Subsidiaries no later than two (2) Business Days after the Effective Date;

(b) deliver to Collateral Agent a landlord's consent executed in favor of Collateral Agent in respect of all of Borrower's and each Subsidiaries' leased locations no later than thirty (30) days after the Effective Date (or such later date as Collateral Agent may agree, in each case, not to exceed sixty (60) days thereafter);

(c) deliver a bailee waiver executed in favor of Collateral Agent in respect of each third party bailee where Borrower or any Subsidiary maintains Collateral having a book value in excess of One Hundred Thousand Dollars (\$100,000.00) no later than thirty (30) days after the Effective Date (or such later date as Collateral Agent may agree, in each case, not to exceed sixty (60) days thereafter); and

(d) with respect to the insurance policies required by Section 6.5 hereof, deliver to Collateral Agent appropriate evidence showing loss payable and/or additional insured clauses or endorsements in favor of Collateral Agent, for the ratable benefit of the Secured Parties.

(e) deliver to Collateral Agent (i) duly executed Control Agreements with respect to any Collateral Accounts maintained by Borrower or any of its Subsidiaries and (ii) an ACH Letter, each by no later than ten (10) Business Days after the Fourth Amendment Effective Date.

4. CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest. Borrower hereby grants Collateral Agent, for the ratable benefit of the Secured Parties, to secure the payment and performance in full of all of the Obligations, a continuing first priority security interest in, and pledges to Collateral Agent, for the ratable benefit of the Secured Parties, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products and supporting obligations (as defined in the Code) in respect thereof. If Borrower shall acquire any commercial tort claim (as defined in the Code), Borrower shall grant to Collateral Agent, for the ratable benefit of the Secured Parties, a first priority security interest therein and in the proceeds and products and supporting obligations (as defined in the Code) thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Collateral Agent.

If this Agreement is terminated, Collateral Agent's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as the Lenders' obligation to extend Term Loans has terminated, Collateral Agent shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower.

4.2 Authorization to File Financing Statements. Borrower hereby authorizes Collateral Agent to file financing statements or take any other action required to perfect Collateral Agent's security interests in the Collateral (held for the ratable benefit of the Secured Parties), without notice to Borrower, with all appropriate jurisdictions to perfect or protect Collateral Agent's interest or rights under the Loan Documents.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Collateral Agent and the Lenders as follows:

5.1 Due Organization, Authorization: Power and Authority. Borrower and each of its Subsidiaries is duly existing and in good standing as a Registered Organization in its jurisdictions of organization or formation and Borrower and each of its Subsidiaries is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its businesses or its ownership of property requires that it be so qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Change. In connection with this Agreement, Borrower and each of its Subsidiaries has delivered to Collateral Agent a completed perfection certificate and any updates or supplements thereto on, before or after the Effective Date (each a "Perfection Certificate" and collectively, the "Perfection Certificates"). Borrower represents and warrants that all the information set forth on the Perfection Certificates pertaining to Borrower and each of its Subsidiaries is accurate and complete.

The execution, delivery and performance by Borrower and each of its Subsidiaries of the Loan Documents to which it is, or they are, a party have been duly authorized, and do not (i) conflict with any of Borrower's or such Subsidiaries' organizational documents, including its respective Operating Documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law applicable thereto, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or such Subsidiary, or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such

Governmental Approvals which have already been obtained and are in full force and effect) or are being obtained pursuant to Section 6.1(b), or (v) constitute an event of default under any material agreement by which Borrower, any of its Subsidiaries or any of their respective properties, is bound. Neither Borrower nor any of its Subsidiaries is in default under any agreement to which it is a party or by which it or any of its assets is bound in which such default could reasonably be expected to have a Material Adverse Change.

5.2 Collateral.

(a) Borrower and each its Subsidiaries have good title to, have rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien under the Loan Documents, free and clear of any and all Liens except Permitted Liens, and neither Borrower nor any of its Subsidiaries have any Deposit Accounts, Securities Accounts, Commodity Accounts or other investment accounts other than the Collateral Accounts or the other investment accounts, if any, described in the Perfection Certificates delivered to Collateral Agent in connection herewith in respect of which Borrower or such Subsidiary has given Collateral Agent notice and taken such actions as are necessary to give Collateral Agent a perfected security interest therein as required under this Agreement. The Accounts are bona fide, existing obligations of the Account Debtors.

(b) The security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral, subject only to Permitted Liens that, under applicable law, have priority over Collateral Agent's Lien.

(c) On the Fourth Amendment Effective Date, and except as disclosed on the Perfection Certificate (i) the Collateral is not in the possession of any third party bailee, and (ii) no such third party bailee possesses components of the Collateral in excess of One Hundred Thousand Dollars (\$100,000.00).

(d) All Inventory and Equipment is in all material respects of good and marketable quality, free from material defects.

(e) Borrower and each of its Subsidiaries is the sole owner of the Intellectual Property each respectively purports to own, free and clear of all Liens other than Permitted Liens. Except as noted on the Perfection Certificate (which, upon the consummation of a transaction not prohibited by this Agreement, may be updated to reflect such transaction), neither Borrower nor any of its Subsidiaries is a party to, nor is bound by, any Material Agreement.

(f) None of Borrower or any of its Subsidiaries has used any software or other materials that are subject to an open-source or similar license (including the General Public License, Lesser General Public License, Mozilla Public License, or Affero License) (collectively, "**Open Source Licenses**") in a manner that would cause any software or other materials owned by any Borrower or used in any Borrower products to have to be (i) distributed to third parties at no charge or a minimal charge, (ii) licensed to third parties for the purpose of creating modifications or derivative works, or (iii) subject to the terms of such Open Source License.

5.3 Litigation. Except as disclosed on the Perfection Certificate, there are no actions, suits, investigations, or proceedings pending or, to the Borrower's Knowledge, threatened in writing by or against Borrower or any of its Subsidiaries involving more than One Hundred Fifty Thousand Dollars (\$150,000.00).

5.4 No Material Adverse Change; Financial Statements. All consolidated financial statements for Borrower and its consolidated Subsidiaries, delivered to Collateral Agent fairly present, in conformity with GAAP, and in all material respects the consolidated financial condition of Borrower and its consolidated Subsidiaries, and the consolidated results of operations of Borrower and its consolidated Subsidiaries. Since December 31, 2018, there has not been a Material Adverse Change.

5.5 Solvency. Borrower is Solvent. Borrower and each of its Subsidiaries, when taken as a whole, are Solvent.

5.6 Regulatory Compliance. Neither Borrower nor any of its Subsidiaries is an “investment company” or a company “controlled” by an “investment company” under the Investment Company Act of 1940, as amended. Neither Borrower nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower and each of its Subsidiaries has complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries is a “holding company” or an “affiliate” of a “holding company” or a “subsidiary company” of a “holding company” as each term is defined and used in the Public Utility Holding Company Act of 2005. Neither Borrower nor any of its Subsidiaries has violated any laws, ordinances or rules, the violation of which could reasonably be expected to have a Material Adverse Change. Neither Borrower’s nor any of its Subsidiaries’ properties or assets has been used by Borrower or such Subsidiary or, to Borrower’s Knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than in material compliance with applicable laws. Borrower and each of its Subsidiaries has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

None of Borrower, any of its Subsidiaries, or any of Borrower’s or its Subsidiaries’ Affiliates or any of their respective agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement is (i) in violation of any Anti-Terrorism Law, (ii) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, or (iii) is a Blocked Person. None of Borrower, any of its Subsidiaries, or to the Knowledge of Borrower and any of their Affiliates or agents, acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (x) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (y) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order or other Anti-Terrorism Law.

5.7 Investments. Neither Borrower nor any of its Subsidiaries owns any stock, shares, partnership interests or other equity securities except for Permitted Investments.

5.8 Tax Returns and Payments; Pension Contributions. Borrower and each of its Subsidiaries have timely filed all required tax returns and reports, and Borrower and each of its Subsidiaries have timely paid all foreign, federal, state, and local Taxes, assessments, deposits and contributions owed by Borrower and such Subsidiaries in an amount greater than Ten Thousand Dollars (\$10,000), in all jurisdictions in which Borrower or any such Subsidiary is subject to Taxes, including the United States, unless such Taxes are being contested in accordance with the next sentence. Borrower and each of its Subsidiaries may defer payment of any contested Taxes, provided that Borrower or such Subsidiary, (a) in good faith contests its obligation to pay the Taxes by appropriate proceedings promptly and diligently instituted and conducted; (b) notifies Collateral Agent of the commencement of, and any material development in, the proceeding; and (c) maintains adequate reserves or other appropriate provisions on its books in accordance with GAAP, provided, further, that such action would not involve, in the reasonable judgment of Collateral Agent, any risk of the sale, forfeiture or loss of any material portion of the Collateral. Neither Borrower nor any of its Subsidiaries is aware of any claims or adjustments proposed for any of Borrower’s or such Subsidiary’s prior Tax years which could result in additional Taxes becoming due and

payable by Borrower or its Subsidiaries. Borrower and each of its Subsidiaries have paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any of its Subsidiaries has withdrawn from participation in, has permitted partial or complete termination of, or has permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower or its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

5.9 Use of Proceeds. Borrower shall use the proceeds of the Term Loans to repay all outstanding obligations under Borrower's existing debt facility with Oxford Finance LLC, as working capital and to fund its general business requirements and other general corporate purposes and to pay any fees and expenses relating to this Agreement and the transactions contemplated hereby, and not for personal, family, household or agricultural purposes.

5.10 Full Disclosure. No written representation, warranty or other statement of Borrower or any of its Subsidiaries in any certificate or written statement, when taken as a whole, given to Collateral Agent or any Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Collateral Agent or any Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized that projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

6. AFFIRMATIVE COVENANTS

Borrower shall, and shall cause each of its Subsidiaries to, do all of the following:

6.1 Government Compliance.

(a) Other than specifically permitted hereunder, maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of organization and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Change. Comply with all laws, ordinances and regulations to which Borrower or any of its Subsidiaries is subject, the noncompliance with which could reasonably be expected to have a Material Adverse Change.

(b) Obtain and keep in full force and effect, all of the material Governmental Approvals necessary for the performance by Borrower and its Subsidiaries of their respective businesses and obligations under the Loan Documents and the grant of a security interest to Collateral Agent for the ratable benefit of the Secured Parties, in all of the Collateral.

6.2 Financial Statements, Reports, Certificates; Notices.

(a) Deliver to Collateral Agent:

(i) as soon as available, but no later than thirty (30) days after the last day of each month, a company prepared consolidated and, if prepared by Borrower or if reasonably requested by the Lenders, consolidating balance sheet, income statement and cash flow statement covering the consolidated operations of Borrower and its consolidated Subsidiaries for such month certified by a Responsible Officer and in a form reasonably acceptable to the Collateral Agent;

(ii) as soon as available, but no later than forty-five (45) days after the last day of each of the first three (3) of Borrower's fiscal quarters, a company prepared consolidated and, if prepared by Borrower or if reasonably requested by the Lenders, consolidating balance sheet, income statement and cash flow statement covering the consolidated operations of Borrower and its consolidated Subsidiaries for such fiscal quarter certified by a Responsible Officer (provided, however, that such certification by a Responsible Officer of Borrower shall be deemed to have made if a similar certification is required under the Sarbanes-Oxley Act of 2002 and such certification shall have been made available within the time period specified above on the SEC's EDGAR system (or any successor system adopted by the SEC) and in a form reasonably acceptable to the Collateral Agent).

(iii) as soon as available, but no later than ninety (90) days after the last day of Borrower's fiscal year or within five (5) days of filing of the same with the SEC, audited consolidated financial statements covering the consolidated operations of Borrower and its consolidated Subsidiaries for such fiscal year, prepared under GAAP, consistently applied, together with an Unqualified Opinion on the financial statements;

(iv) as soon as available after approval thereof by Borrower's board of directors, but no later than the earlier of (x) ten (10) days' after such approval and (y) sixty days after the start of the then-current calendar year, Borrower's annual financial projections for the entire then-next or current, as applicable, fiscal year as approved by Borrower's board of directors; provided that, any revisions to such projections approved by Borrower's board of directors shall be delivered to Collateral Agent and the Lenders no later than seven (7) days after such approval);

(v) within five (5) days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission;

(vi) as soon as available, but no later than thirty (30) days after the last day of each month, copies of the month-end account statements for each Collateral Account maintained by Borrower or its Subsidiaries, which statements may be provided to Collateral Agent and each Lender by Borrower or directly from the applicable institution(s);

(vii) prompt delivery of (and in any event within five (5) days after the same are sent or received) copies of all material correspondence, reports, documents and other filings with any Governmental Authority that could reasonably be expected to result in a Material Adverse Change;

(viii) prompt notice of any event that (A) could reasonably be expected to materially and adversely affect the value of the Intellectual Property or (B) could reasonably be expected to result in a Material Adverse Change;

(ix) written notice delivered at least ten (10) days' prior to Borrower's creation of a New Subsidiary in accordance with the terms of Section 6.10;

(x) written notice delivered at least ten (10) days' prior to Borrower's (A) adding any new offices or business locations, including warehouses (unless such new offices or business locations contain less than Two Hundred Thousand Dollars (\$200,000.00) in assets or property of Borrower or any of its Subsidiaries) (it being understood that this clause shall not apply to assets or property in transit), (B) changing its respective jurisdiction of organization, (C) changing its organizational structure or type, (D) changing its respective legal name, or (E) changing any organizational number(s) (if any) assigned by its respective jurisdiction of organization;

(xi) upon Borrower becoming aware of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, prompt (and in any event within three (3) Business Days) written notice of such occurrence, which such notice shall include a reasonably detailed description of such Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, and Borrower's proposal regarding how to cure such Event of Default or event;

(xii) immediate notice if Borrower or such Subsidiary has Knowledge that Borrower, or any Subsidiary or Affiliate of Borrower, is listed on the OFAC Lists or (a) is convicted on, (b) pleads nolo contendere to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering;

(xiii) notice of any commercial tort claim (as defined in the Code) or letter of credit rights (as defined in the Code) held by Borrower or any Guarantor, in each case in an amount greater than One Hundred Thousand Dollars (\$100,000.00) and of the general details thereof;

(xiv) if Borrower or any of its Subsidiaries is not now a Registered Organization but later becomes one, written notice of such occurrence and information regarding such Person's organizational identification number within ten (10) days of receiving such organizational identification number;

(xv) prompt notice of the execution of any Material Agreement or any amendment to, modification of, termination of or waiver under any Material Agreement; and

(xvi) other information as reasonably requested by Collateral Agent or any Lender.

Notwithstanding the foregoing, the financial statements or other reports required to be delivered pursuant to clauses (ii), (iii) and (iv) above may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address.

(b) Concurrently with the delivery of the financial statements specified in Section 6.2(a)(i) above for each March, June, September and December, but no later than thirty (30) days after the last day of each such month, deliver to each Lender (x) an updated Perfection Certificate to reflect any amendments, modifications and updates, if any, to certain information in the Perfection Certificate after the Effective Date to the extent such amendments, modifications and updates are permitted by one or more specific provisions in this agreement or (y) a certificate of a Responsible Officer certifying that there has been no change in such information from the most recent Perfection Certificate delivered to Collateral Agent.

(c) Concurrently with the delivery of the financial statements specified in Section 6.2(a)(i) above but no later than thirty (30) days after the last day of each month, deliver to each Lender:

(i) a duly completed Compliance Certificate signed by a Responsible Officer;

(ii) copies of any material Governmental Approvals obtained by Borrower or any of its Subsidiaries;

(iii) written notice of the commencement of, and any material development in, the proceedings contemplated by Section 5.8 hereof;

(iv) prompt written notice of any litigation or governmental proceedings pending or threatened (in writing) against Borrower or any of its Subsidiaries, which could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of One Hundred Fifty Thousand Dollars (\$150,000.00); and

(v) written notice of all returns, recoveries, disputes and claims regarding Inventory that involve more than One Hundred Thousand Dollars (\$100,000.00) individually or in the aggregate in any calendar year.

(d) Keep proper, complete and true books of record and account in accordance with GAAP in all material respects. Borrower shall, and shall cause each of its Subsidiaries to, allow, at the sole cost of Borrower, Collateral Agent or any Lender, during regular business hours upon reasonable prior notice (provided that no notice shall be required when an Event of Default has occurred and is continuing), to visit and inspect any of its properties, to examine and make abstracts or copies from any of its books and records, and to conduct a collateral audit and analysis of its operations and the Collateral. Such audits shall be conducted no more often than once every year unless (and more frequently if) an Event of Default has occurred and is continuing.

6.3 Inventory; Returns. Keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between Borrower, or any of its Subsidiaries, as applicable, and their respective Account Debtors shall follow Borrower's, or such Subsidiary's, customary practices as they exist as of the Effective Date.

6.4 Taxes; Pensions. Timely file, and require each of its Subsidiaries to timely file, all required tax returns and reports, and timely pay, and require each of its Subsidiaries to timely pay, all foreign, federal, state, and local Taxes, assessments, deposits and contributions owed by Borrower or its Subsidiaries, except as otherwise permitted pursuant to the terms of Section 5.8 hereof; deliver to Lenders, on demand, appropriate certificates attesting to such payments; and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with the terms of such plans.

6.5 Insurance. Keep Borrower's and its Subsidiaries' business and the Collateral insured for risks and in amounts standard for companies in Borrower's and its Subsidiaries' industry and location and as Collateral Agent may reasonably request. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to Collateral Agent and Lenders. All property policies shall have a lender's loss payable endorsement showing Collateral Agent as lender loss payee and shall waive subrogation against Collateral Agent, and all liability policies shall show, or have endorsements showing, Collateral Agent (for the ratable benefit of the Secured Parties), as additional insured. The Collateral Agent shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Collateral Agent, that it will give the Collateral Agent thirty (30) days prior written notice (or ten (10) days prior written notice for non-payment) before any such policy or policies shall be cancelled. At Collateral Agent's request, Borrower shall deliver to the Collateral Agent certified copies of policies and evidence of all premium payments. Proceeds payable under any policy shall, at Collateral Agent's option, be payable to Collateral Agent, for the ratable benefit of the Secured Parties, on account of the then-outstanding Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy within one hundred eighty (180) days of receipt thereof up to Five Hundred Thousand Dollars (\$500,000.00) with respect to any loss, but not exceeding Five Hundred Thousand Dollars (\$500,000.00), in the aggregate for all losses under all casualty policies in any one year, toward the replacement promptly or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Collateral Agent has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event

of Default, all proceeds payable under such casualty policy shall, at the option of Collateral Agent, be payable to Collateral Agent, for the ratable benefit of the Lenders, on account of the Obligations. If Borrower or any of its Subsidiaries fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons, Collateral Agent and/or any Lender may make (but has no obligation to do so), at Borrower's expense, all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Collateral Agent or such Lender deems prudent.

6.6 Operating Accounts.

(a) From and after the date that is two (2) Business Days after the Effective Date, maintain Borrower's and Guarantors' Collateral Accounts with depository institutions that have agreed to execute Control Agreements in favor of Collateral Agent with respect to such Collateral Accounts; provided, that with respect to Borrower's Collateral Accounts maintained with PNC Bank, National Association, the aggregate amount of all cash or Cash Equivalents in all such Collateral Accounts, in the aggregate, shall not exceed Five Million Dollars (\$5,000,000) until the date on which Borrower has delivered such Control Agreements in favor of Collateral Agent with respect to such Collateral Accounts. The provisions of the previous sentence shall not apply to Deposit Accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of Borrower's, or any Guarantor's, employees, in an aggregate amount not to exceed One Hundred Thousand Dollars \$100,000 and as identified to Collateral Agent by Borrower as such in the Perfection Certificate.

(b) Borrower shall provide Collateral Agent ten (10) days' prior written notice before Borrower or any Guarantor establishes any Collateral Account. In addition, for each Collateral Account that Borrower or any Guarantor, at any time maintains, Borrower or such Guarantor shall cause the applicable bank or financial institution at or with which such Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Collateral Agent's Lien in such Collateral Account (held for the ratable benefit of the Secured Parties) in accordance with the terms hereunder prior to the establishment of such Collateral Account. The provisions of the previous sentence shall not apply to any Excluded Accounts.

(c) Neither Borrower nor any Guarantor shall maintain any Collateral Accounts except Collateral Accounts maintained in accordance with this Section 6.6.

6.7 Protection of Intellectual Property Rights. Borrower and each of its Subsidiaries shall: (a) protect, defend and maintain the validity and enforceability of its respective Intellectual Property that is material to its business; (b) promptly advise Collateral Agent in writing of infringement by a third party of its respective material Intellectual Property; and (c) not allow any of its respective Intellectual Property material to its respective business to be abandoned, forfeited or dedicated to the public without Collateral Agent's prior written consent.

6.8 Litigation Cooperation. Commencing on the Effective Date and continuing through the termination of this Agreement, make available to Collateral Agent and the Lenders, without expense to Collateral Agent or the Lenders, Borrower and each of Borrower's officers, employees and agents and Borrower's Books, to the extent that Collateral Agent or any Lender may reasonably deem them necessary to prosecute or defend any third-party suit or proceeding instituted by or against Collateral Agent or any Lender with respect to any Collateral or relating to Borrower.

6.9 Landlord Waivers; Bailee Waivers. In the event that Borrower or any of its Subsidiaries, after the Effective Date, intends to add any new offices or business locations, including warehouses, or otherwise store any portion of the Collateral with, or deliver any portion of the Collateral to, a bailee, in each case pursuant to Section 7.2, then, in the event that the Collateral at any new location is valued (based

on book value) in excess of One Hundred Thousand Dollars (\$100,000.00) in the aggregate, at Collateral Agent's election, such bailee or landlord, as applicable, must execute and deliver a bailee waiver or landlord waiver, as applicable, in form and substance reasonably satisfactory to Collateral Agent prior to the addition of any new offices or business locations, or any such storage with or delivery to any such bailee, as the case may be.

6.10 Creation/Acquisition of Subsidiaries. In the event any Borrower or any Subsidiary of any Borrower creates or acquires any Subsidiary after the Effective Date, Borrower or such Subsidiary shall promptly notify the Collateral Agent and the Lenders of such creation or acquisition, and Borrower or such Subsidiary shall, within sixty (60) days of the creation or acquisition of such Subsidiary, take all actions reasonably requested by the Collateral Agent or the Lenders to achieve any of the following with respect to such "New Subsidiary" (defined as a Subsidiary formed after the date hereof during the term of this Agreement): (i) to cause such New Subsidiary to become either a co-Borrower hereunder, or a secured guarantor with respect to the Obligations; and (ii) to grant and pledge to Collateral Agent a perfected security interest in 100% of the stock, units or other evidence of ownership held by Borrower or its Subsidiaries of any such New Subsidiary.

6.11 Further Assurances. Execute any further instruments and take further action as Collateral Agent or any Lender reasonably requests to perfect or continue Collateral Agent's Lien in the Collateral or to effect the purposes of this Agreement.

7. NEGATIVE COVENANTS

Borrower shall not, and shall not permit any of its Subsidiaries to, do any of the following without the prior written consent of the Required Lenders:

7.1 Dispositions. Convey, sell, lease, transfer, assign, dispose of, license (collectively, "Transfer"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Permitted Transfers.

7.2 Changes in Business, Management, Ownership, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses engaged in by Borrower or such Subsidiary, as applicable, as of the Effective Date or reasonably related thereto; (b) liquidate or dissolve; or (c) (i) terminate the employment of any Key Person unless written notice thereof is provided to each Lender within ten (10) days of such termination of employment, or (ii) enter into any transaction or series of related transactions in which (A) the stockholders of Borrower who were not stockholders immediately prior to the first such transaction own more than thirty-five percent (35%) of the voting stock of Borrower immediately after giving effect to such transaction or related series of such transactions and (B) except as permitted by Section 7.3, Borrower ceases to own, directly or indirectly, 100% of the ownership interests in each Subsidiary of Borrower. Borrower shall not, and shall not permit any of its Subsidiaries to, without at least ten (10) days' prior written notice to Collateral Agent: (A) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than Two Hundred Thousand Dollars (\$200,000.00) in assets or property of Borrower or any of its Subsidiaries, as applicable); (B) change its respective jurisdiction of organization, (C) except as permitted by Section 7.3, change its respective organizational structure or type, (D) change its respective legal name, or (E) change any organizational number(s) (if any) assigned by its respective jurisdiction of organization.

7.3 Mergers or Acquisitions. Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or shares or any property of another Person, in each case including for the avoidance of doubt through a merger, purchase, in-licensing arrangement or any similar transaction. A Subsidiary may merge or consolidate into another Subsidiary (provided such surviving Subsidiary is a "co-Borrower" hereunder or has provided a secured Guaranty of Borrower's Obligations hereunder in accordance with Section 6.10) or with (or into) Borrower provided Borrower is the surviving legal entity, and as long as no Event of Default is occurring prior thereto or arises as a result therefrom.

7.4 Indebtedness. Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than Permitted Indebtedness.

7.5 Encumbrance. Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or permit any Collateral not to be subject to the first priority security interest granted herein (except for Permitted Liens), or enter into any agreement, document, instrument or other arrangement (except with or in favor of Collateral Agent, for the ratable benefit of the Secured Parties) with any Person which directly or indirectly prohibits or has the effect of prohibiting Borrower, or any of its Subsidiaries, from assigning, mortgaging, pledging, granting a security interest in or upon, or encumbering any of Borrower's or such Subsidiary's Intellectual Property, except as is otherwise permitted in Section 7.1 hereof and the definition of "Permitted Liens".

7.6 Maintenance of Collateral Accounts. With respect to Borrower any Guarantors, maintain any Collateral Account except pursuant to the terms of Section 6.6 hereof.

7.7 Restricted Payments. (a) Declare or pay any dividends (other than dividends payable solely in capital stock) or make any other distribution or payment in respect of or redeem, retire or purchase any capital stock (other than (i) the declaration or payment of dividends to Borrower or its Subsidiaries, (ii) the declaration or payment of any dividends solely in the form of equity securities, and (iii) repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements, stockholder rights plans, employee, director or consultant equity plans, or similar plans, provided such repurchases do not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate per fiscal year), (b) other than the Obligations in accordance with the terms hereof, purchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness prior to its scheduled maturity unless being replaced with Indebtedness of at least the same principal amount and such new Indebtedness is Permitted Indebtedness, or (c) be a party to or bound by an agreement that restricts a Subsidiary from paying dividends or otherwise distributing property to Borrower.

7.8 Investments. Directly or indirectly make any Investment other than Permitted Investments, or permit any of its Subsidiaries to do so other than Permitted Investments.

7.9 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower or any of its Subsidiaries, except for (a) transactions that are in the ordinary course of Borrower's or such Subsidiary's business, upon fair and reasonable terms that are no less favorable to Borrower or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person, and (b) Subordinated Debt or equity investments by Borrower's investors in Borrower or its Subsidiaries.

7.10 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof or adversely affect the subordination thereof to Obligations owed to the Lenders.

7.11 Compliance. (a) Become an “investment company” or a company controlled by an “investment company”, under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Term Loan for that purpose; (b) fail to meet the minimum funding requirements of ERISA; (c) permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; (d) fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a Material Adverse Change, or permit any of its Subsidiaries to do so; or (e) withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower or any of its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

7.12 Compliance with Anti-Terrorism Laws. Directly or indirectly, Knowingly or permit any Affiliate to enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Directly or indirectly or permit any Affiliate to, (a) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (b) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 or any similar executive order or other Anti-Terrorism Law, or (c) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law.

7.13 Financial Covenants.

(a) Minimum Liquidity. Permit, at any time, Qualified Cash to be less than [***] plus the Qualified Cash A/P Amount.

(b) Minimum Net Product Revenue. Commencing with the measurement period ending January 31, 2023, as of the last day of each month, permit Net Product Revenue, measured on a trailing twelve-month basis, to be lower than the value equal to 110% of the actual Net Product Revenue as of the month ending twelve (12) months prior to such date of determination. For clarity, the minimum Net Product Revenue levels for 2023 and January and February 2024 are set forth below:

<u>Measurement Period Ending</u>	<u>Minimum Net Product Revenue</u>
January 31, 2023	\$ [***]
February 28, 2023	\$ [***]
March 31, 2023	\$ [***]
April 30, 2023	\$ [***]
May 31, 2023	\$ [***]
June 30, 2023	\$ [***]
July 31, 2023	\$ [***]
August 31, 2023	\$ [***]

September 30, 2023	\$[***]
October 31, 2023	\$[***]
November 30, 2023	\$[***]
December 31, 2023	\$[***]
January 31, 2024	\$[***]
February 29, 2024	\$[***]

7.14 Material Agreements. Without the consent of Collateral Agent, amend any Material Agreement in a manner adverse to the interests of the Collateral Agent or Lenders.

8. EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an “**Event of Default**”) under this Agreement:

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Term Loan on its due date, or (b) pay any other Obligation within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Maturity Date or the date of acceleration pursuant to Section 9.1 (a) hereof);

8.2 Covenant Default.

(a) Borrower or any of its Subsidiaries fails or neglects to perform any obligation in Sections 3.6 (Post-Closing Obligations), 6.2 (Financial Statements, Reports, Certificates), 6.4 (Taxes), 6.5 (Insurance), 6.6 (Operating Accounts), 6.7 (Protection of Intellectual Property Rights), 6.9 (Landlord Waivers; Bailee Waivers), 6.10 (Creation/Acquisition of Subsidiaries) or Borrower violates any provision in Section 7; or

(b) Borrower, or any of its Subsidiaries, fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any other Loan Document to which such person is a party, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within twenty (20) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the twenty (20) day period or cannot after diligent attempts by Borrower or such Subsidiary, as applicable, be cured within such twenty (20) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Term Loans shall be made during such cure period).

8.3 Material Adverse Change. A Material Adverse Change has occurred;

8.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or any of its Subsidiaries or of any entity under control of Borrower or its Subsidiaries on deposit with any institution at which Borrower or any of its Subsidiaries maintains a Collateral Account, or (ii) a notice of lien, levy, or assessment is filed against Borrower or any of its Subsidiaries or their respective assets by any government agency, and the same under subclauses (i) and (ii) of this clause (a) are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); and

(b) (i) any material portion of Borrower's or any of its Subsidiaries' assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower or any of its Subsidiaries from conducting any part of its business;

8.5 Insolvency. (a) Borrower or any of its Subsidiaries is or becomes Insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and not dismissed or stayed within forty-five (45) days (but no Term Loans shall be extended while Borrower or any Subsidiary is Insolvent and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements. There is a default in (a) any agreement to which Borrower or any of its Subsidiaries is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of One Hundred Thousand Dollars (\$100,000.00) or that could reasonably be expected to have a Material Adverse Change or (b) there is any default under a Material Agreement that permits the counterparty thereto to accelerate the payments owed thereunder;

8.7 Judgments. One or more judgments, orders, or decrees for the payment of money in an amount, individually or in the aggregate, of at least Five Hundred Thousand Dollars (\$500,000.00) (not covered by independent third-party insurance as to which (a) Borrower reasonably believes such insurance carrier will accept liability, (b) Borrower or the applicable Subsidiary has submitted such claim to such insurance carrier and (c) liability has not been rejected by such insurance carrier) shall be rendered against Borrower or any of its Subsidiaries and shall remain unsatisfied, unvacated, or unstayed for a period of ten (10) days after the entry thereof;

8.8 Misrepresentations. Borrower or any of its Subsidiaries or any Person acting for Borrower or any of its Subsidiaries makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Collateral Agent and/or the Lenders or to induce Collateral Agent and/or the Lenders to enter this Agreement or any Loan Document, and such representation, warranty, or other statement, when taken as a whole, is incorrect in any material respect when made;

8.9 Subordinated Debt. A default or breach occurs under any subordination agreement, or any creditor that has signed such an agreement with Collateral Agent or the Lenders breaches any terms of such agreement;

8.10 Guaranty. (a) Any Guaranty terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any Guaranty; or (c) any circumstance described in Section 8 occurs with respect to any Guarantor;

8.11 Governmental Approvals; FDA Action. Any Governmental Approval shall have been revoked, rescinded, suspended, modified in an adverse manner, or not renewed in the ordinary course for a full term *and* such revocation, rescission, suspension, modification or non-renewal has resulted in or could reasonably be expected to result in a Material Adverse Change; or (b) (i) the FDA, DOJ or other Governmental Authority initiates a Regulatory Action or any other enforcement action against Borrower or any of its Subsidiaries or any supplier of Borrower or any of its Subsidiaries that causes Borrower or any

of its Subsidiaries to recall, withdraw, remove or discontinue manufacturing, distributing, and/or marketing any of its products, even if such action is based on previously disclosed conduct; (ii) the FDA or any other comparable Governmental Authority issues a warning letter to Borrower or any of its Subsidiaries with respect to any of its activities or products which could reasonably be expected to result in a Material Adverse Change; (iii) Borrower or any of its Subsidiaries conducts a mandatory or voluntary recall which could reasonably be expected to result in liability and expense to Borrower or any of its Subsidiaries of Five Hundred Thousand Dollars (\$500,000) or more; (iv) Borrower or any of its Subsidiaries enters into a settlement agreement with the FDA, DOJ or other Governmental Authority that results in aggregate liability as to any single or related series of transactions, incidents or conditions, of Five Hundred Thousand Dollars (\$500,000) or more, or that could reasonably be expected to result in a Material Adverse Change, even if such settlement agreement is based on previously disclosed conduct; or (v) the FDA or any other comparable Governmental Authority revokes any authorization or permission granted under any Registration, or Borrower or any of its Subsidiaries withdraws any Registration, that could reasonably be expected to result in a Material Adverse Change.

8.12 Lien Priority. Except as the result of the action or inaction of the Collateral Agent or the Lenders, any Lien created hereunder or by any other Loan Document shall at any time fail to constitute a valid and perfected Lien on any of the Collateral purported to be secured thereby, subject to no prior or equal Lien, other than Permitted Liens arising as a matter of applicable law.

9. RIGHTS AND REMEDIES

9.1 Rights and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default, Collateral Agent may, and at the written direction of Required Lenders shall, without notice or demand, do any or all of the following: (i) deliver notice of the Event of Default to Borrower, (ii) by notice to Borrower declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations shall be immediately due and payable without any action by Collateral Agent or the Lenders) or (iii) by notice to Borrower suspend or terminate the obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders (but if an Event of Default described in Section 8.5 occurs all obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Collateral Agent and/or the Lenders shall be immediately terminated without any action by Collateral Agent or the Lenders).

(b) Without limiting the rights of Collateral Agent and the Lenders set forth in Section 9.1(a) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right and at the written direction of the Required Lenders shall, without notice or demand, to do any or all of the following:

(i) foreclose upon and/or sell or otherwise liquidate, the Collateral;

(ii) make a demand for payment upon any Guarantor pursuant to the Guaranty delivered by such Guarantor;

(iii) apply to the Obligations any (A) balances and deposits of Borrower that Collateral Agent or any Lender holds or controls, (B) any amount held or controlled by Collateral Agent or any Lender owing to or for the credit or the account of Borrower, or (C) amounts received from any Guarantors in accordance with the respective Guaranty delivered by such Guarantor; and/or

(iv) commence and prosecute an Insolvency Proceeding or consent to Borrower commencing any Insolvency Proceeding.

(c) Without limiting the rights of Collateral Agent and the Lenders set forth in Sections 9.1(a) and (b) above, upon the occurrence and during the continuance of an Event of Default, Collateral Agent shall have the right and at the written direction of the Required Lenders shall, without notice or demand, to do any or all of the following:

(i) settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Collateral Agent considers advisable, notify any Person owing Borrower money of Collateral Agent's security interest in such funds, and verify the amount of such account;

(ii) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its Liens in the Collateral (held for the ratable benefit of the Secured Parties). Borrower shall assemble the Collateral if Collateral Agent requests and make it available at such location as Collateral Agent reasonably designates. Collateral Agent may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Collateral Agent a license to enter and occupy any of its premises, without charge, to exercise any of Collateral Agent's rights or remedies;

(iii) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, and/or advertise for sale, any of the Collateral. Collateral Agent is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's and each of its Subsidiaries' labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Collateral Agent's exercise of its rights under this Section 9.1, Borrower's and each of its Subsidiaries' rights under all licenses and all franchise agreements inure to Collateral Agent, for the benefit of the Lenders;

(iv) place a "hold" on any Collateral Account maintained with Collateral Agent or any Lender or otherwise in respect of which a Control Agreement has been delivered in favor of Collateral Agent (for the ratable benefit of the Secured Parties) and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

(v) demand and receive possession of Borrower's Books;

(vi) appoint a receiver to seize, manage and realize any of the Collateral, and such receiver shall have any right and authority as any competent court will grant or authorize in accordance with any applicable law, including any power or authority to manage the business of Borrower or any of its Subsidiaries; and

(vii) subject to clauses 9.1(a) and (b), exercise all rights and remedies available to Collateral Agent and each Lender under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

Notwithstanding any provision of this Section 9.1 to the contrary, upon the occurrence of any Event of Default, Collateral Agent shall have the right to exercise any and all remedies referenced in this Section 9.1 without the written consent of Required Lenders following the occurrence of an Exigent Circumstance.

9.2 Power of Attorney. Borrower hereby irrevocably appoints Collateral Agent as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's or any of its Subsidiaries' name on any checks or other forms of payment or security; (b) sign Borrower's or any of its Subsidiaries' name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts of Borrower directly with the applicable Account Debtors, for amounts and on terms Collateral Agent determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Collateral Agent or a third party as the Code or any applicable law permits. Borrower hereby appoints Collateral Agent as its lawful attorney-in-fact to sign Borrower's or any of its Subsidiaries' name on any documents necessary to perfect or continue the perfection of Collateral Agent's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations (other than inchoate indemnity obligations) have been satisfied in full and Collateral Agent and the Lenders are under no further obligation to make extend Term Loans hereunder. Collateral Agent's foregoing appointment as Borrower's or any of its Subsidiaries' attorney in fact, and all of Collateral Agent's rights and powers, coupled with an interest, are irrevocable until all Obligations (other than inchoate indemnity obligations) have been fully repaid and performed and Collateral Agent's and the Lenders' obligation to provide Term Loans terminates.

9.3 Protective Payments. If Borrower or any of its Subsidiaries fail to obtain the insurance called for by Section 6.5 or fails to pay any premium thereon or fails to pay any other amount which Borrower or any of its Subsidiaries is obligated to pay under this Agreement or any other Loan Document, Collateral Agent may obtain such insurance or make such payment, and all amounts so paid by Collateral Agent are Lenders' Expenses and immediately due and payable, bearing interest at the Default Rate, and secured by the Collateral. Collateral Agent will make reasonable efforts to provide Borrower with notice of Collateral Agent obtaining such insurance or making such payment at the time it is obtained or paid or within a reasonable time thereafter. No such payments by Collateral Agent are deemed an agreement to make similar payments in the future or Collateral Agent's waiver of any Event of Default.

9.4 Application of Payments and Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (a) Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Collateral Agent from or on behalf of Borrower or any of its Subsidiaries of all or any part of the Obligations, and, as between Borrower on the one hand and Collateral Agent and Lenders on the other, Collateral Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as Collateral Agent may deem advisable notwithstanding any previous application by Collateral Agent, and (b) the proceeds of any sale of, or other realization upon all or any part of the Collateral shall be applied: first, to the Lenders' Expenses; second, to accrued and unpaid interest on the Obligations (including any interest which, but for the provisions of the United States Bankruptcy Code, would have accrued on such amounts); third, to the principal amount of the Obligations outstanding; and fourth, to any other Obligations owing to Collateral Agent or any Lender under the Loan Documents. Any balance remaining shall be delivered to Borrower or to whoever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. In carrying out the foregoing, (x) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category, and (y) each of the Persons entitled to receive a payment in any particular category shall receive an amount equal to its pro rata share of amounts available to be applied pursuant thereto for such category. Any reference in this Agreement to an allocation between or sharing by the Lenders of any right, interest or obligation "ratably," "proportionally" or in similar terms shall refer to the Lenders' Pro Rata Shares unless expressly provided otherwise. Collateral Agent, or if applicable, each Lender, shall promptly remit to the other Lenders such sums as may be

necessary to ensure the ratable repayment of each Lender's Pro Rata Share of any Term Loan and the ratable distribution of interest, fees and reimbursements paid or made by Borrower. Notwithstanding the foregoing, a Lender receiving a scheduled payment shall not be responsible for determining whether the other Lenders also received their scheduled payment on such date; provided, however, if it is later determined that a Lender received more than its Pro Rata Share of scheduled payments made on any date or dates, then such Lender shall remit to Collateral Agent or other the Lenders such sums as may be necessary to ensure the ratable payment of such scheduled payments, as instructed by Collateral Agent. If any payment or distribution of any kind or character, whether in cash, properties or securities, shall be received by a Lender in excess of its Pro Rata Share, then the portion of such payment or distribution in excess of such Lender's Pro Rata Share shall be received and held by such Lender in trust for and shall be promptly paid over to the other Lenders (in accordance with their respective Pro Rata Shares) for application to the payments of amounts due on such other Lenders' claims. To the extent any payment for the account of Borrower is required to be returned as a voidable transfer or otherwise, the Lenders shall contribute to one another as is necessary to ensure that such return of payment is on a pro rata basis. If any Lender shall obtain possession of any Collateral, it shall hold such Collateral for itself and as agent and bailee for the Secured Parties for purposes of perfecting Collateral Agent's security interest therein (held for the ratable benefit of the Secured Parties).

9.5 Liability for Collateral. So long as Collateral Agent and the Lenders comply with reasonable banking practices regarding the safekeeping of the Collateral in the possession or under the control of Collateral Agent and the Lenders, Collateral Agent and the Lenders shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

9.6 No Waiver; Remedies Cumulative. Failure by Collateral Agent or any Lender, at any time or times, to require strict performance by Borrower of any provision of this Agreement or by Borrower or any other Loan Document shall not waive, affect, or diminish any right of Collateral Agent or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by Collateral Agent and the Required Lenders and then is only effective for the specific instance and purpose for which it is given. The rights and remedies of Collateral Agent and the Lenders under this Agreement and the other Loan Documents are cumulative. Collateral Agent and the Lenders have all rights and remedies provided under the Code, any applicable law, by law, or in equity. The exercise by Collateral Agent or any Lender of one right or remedy is not an election, and Collateral Agent's or any Lender's waiver of any Event of Default is not a continuing waiver. Collateral Agent's or any Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

9.7 Demand Waiver. Borrower waives, to the fullest extent permitted by law, demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Collateral Agent or any Lender on which Borrower or any Subsidiary is liable.

10. NOTICES

Other than as specifically provided herein, all notices, consents, requests, approvals, demands, or other communication (collectively, "Communications") by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Any of Collateral Agent, Lender or Borrower may change its mailing address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower: NEURONETICS, INC.
3222 Phoenixville Pike
Malvern, PA 19355
Attn: Chief Financial Officer
Email: [***]

with a copy to: NEURONETICS, INC.
3222 Phoenixville Pike
Malvern, PA 19355
Attn: General Counsel
Email: [***]

with a copy (which shall not constitute notice) to: Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, Pennsylvania 19312-1183
Attn: Timothy C. Atkins, Esq.
Fax: [***]
Email: [***]

If to Collateral Agent: SOLAR CAPITAL LTD.
500 Park Avenue, 3rd Floor
New York, NY 10022
Attention: Anthony Storino
Fax: [***]
Email: [***]

with a copy (which shall not constitute notice) to: LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Attention: Haim Zaltzman
Fax: [***]
Email: [***]

11. CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER

11.1 Waiver of Jury Trial. EACH OF BORROWER, COLLATERAL AGENT AND LENDERS UNCONDITIONALLY WAIVES ANY AND ALL RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT, ANY OF THE OTHER LOAN DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS AMONG BORROWER, COLLATERAL AGENT AND/OR LENDERS RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED AMONG BORROWER, COLLATERAL

AGENT AND/OR LENDERS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT. THIS WAIVER IS IRREVOCABLE. THIS WAIVER MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING. THE WAIVER ALSO SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

11.2 Governing Law and Jurisdiction. THIS AGREEMENT, THE OTHER LOAN DOCUMENTS (EXCLUDING THOSE LOAN DOCUMENTS THAT BY THEIR OWN TERMS ARE EXPRESSLY GOVERNED BY THE LAWS OF ANOTHER JURISDICTION) AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, REGARDLESS OF THE LOCATION OF THE COLLATERAL, PROVIDED, HOWEVER, THAT IF THE LAWS OF ANY JURISDICTION OTHER THAN NEW YORK SHALL GOVERN IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS AFFECTING ENFORCEMENT OF ANY LIENS IN COLLATERAL, SUCH LAWS OF SUCH OTHER JURISDICTIONS SHALL CONTINUE TO APPLY TO THAT EXTENT.

11.3 Submission to Jurisdiction. Any legal action or proceeding with respect to the Loan Documents shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, Borrower hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts. Notwithstanding the foregoing, Collateral Agent and Lenders shall have the right to bring any action or proceeding against Borrower (or any property of Borrower) in the court of any other jurisdiction Collateral Agent or Lenders deem necessary or appropriate in order to realize on the Collateral or other security for the Obligations. The parties hereto hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

11.4 Service of Process. Borrower irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States of America with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable requirements of law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of Borrower specified herein (and shall be effective when such mailing shall be effective, as provided therein). Borrower agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

11.5 Non-exclusive Jurisdiction. Nothing contained in this Article 11 shall affect the right of Collateral Agent or Lenders to serve process in any other manner permitted by applicable requirements of law or commence legal proceedings or otherwise proceed against Borrower in any other jurisdiction.

12. GENERAL PROVISIONS

12.1 Successors and Assigns.

(a) This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not transfer, pledge or assign this Agreement or any rights or obligations under it without Collateral Agent's prior written consent (which may be granted or withheld in Collateral Agent's discretion, subject to Section 12.5). The Lenders have the right, without the consent of or notice to Borrower, to sell, transfer, assign, pledge, negotiate, or grant participation in (**any** such sale, transfer, assignment, negotiation, or grant of a participation, a "**Lender Transfer**") all or any part of, or any interest in, the Lenders' obligations, rights, and benefits under this Agreement and the other Loan Documents; *provided, however*, that any such Lender Transfer (other than (i) any Transfer at any time that an Event of Default has occurred and is continuing, or (ii) a transfer, pledge, sale or assignment to an Eligible Assignee) of its obligations, rights, and benefits under this Agreement and the other Loan Documents shall require the prior written consent of Collateral Agent (such approved assignee, an "**Approved Lender**"). Borrower and Collateral Agent shall be entitled to continue to deal solely and directly with such Lender in connection with the interests so assigned until Collateral Agent shall have received and accepted an effective assignment agreement in form satisfactory to Collateral Agent executed, delivered and fully completed by the applicable parties thereto, and shall have received such other information regarding such Eligible Assignee or Approved Lender as Collateral Agent reasonably shall require.

(b) Notwithstanding anything to the contrary contained herein, so long as no Event of Default has occurred and is continuing, no Lender Transfer (other than a Lender Transfer in connection with (x) assignments by a Lender due to a forced divestiture at the request of any regulatory agency; or (y) upon the occurrence of a default, event of default or similar occurrence with respect to a Lender's own financing or securitization transactions) shall be permitted, without Borrower's consent, to any Person which is an Affiliate or Subsidiary of Borrower, a then-current direct competitor of Borrower, as reasonably determined by Collateral Agent at the time of such assignment, vulture funds or distressed debt funds, as reasonably determined by Collateral Agent at the time of such assignment, and natural persons.

(c) Collateral Agent, acting solely for this purpose as an agent of Borrower, shall maintain at one of its offices in the United States a register for the recordation of the names and addresses of the Lenders, and the Term Loan Commitments of, and principal amounts (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 Borrower, Collateral Agent and Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of 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 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 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. For the avoidance of doubt, Collateral Agent (in its capacity as Collateral Agent) shall have no responsibility for maintaining a Participant Register. Borrower agrees that each participant shall be entitled to the benefits

of the provisions in Exhibit C attached hereto (subject to the requirements and limitations therein, including the requirements under Section 7 of Exhibit C attached hereto (it being understood that the documentation required under Section 7 of Exhibit C attached hereto shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to this Section 12.1; provided that such participant shall not be entitled to receive any greater payment under Exhibit C attached hereto, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in law that occurs after the participant acquired the applicable participation.

12.2 Indemnification. Borrower agrees to indemnify, defend and hold each Secured Party and their respective directors, officers, employees, consultants, agents, attorneys, or any other Person affiliated with or representing such Secured Party (each, an “**Indemnified Person**”) harmless against: (a) all obligations, demands, claims, and liabilities (collectively, “**Claims**”) asserted by any other party in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents; and (b) all losses and Lenders’ Expenses incurred, or paid by Indemnified Person in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents (including reasonable and invoiced out-of-pocket attorneys’ fees and expenses), except, in each case, for Claims and/or losses directly caused by such Indemnified Person’s gross negligence or willful misconduct. Borrower hereby further agrees to indemnify, defend and hold each Indemnified Person harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable and invoiced out-of-pocket fees and disbursements of counsel for such Indemnified Person) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnified Person shall be designated a party thereto and including any such proceeding initiated by or on behalf of Borrower, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by Collateral Agent or Lenders) asserting any right to payment for the transactions contemplated hereby which may be imposed on, incurred by or asserted against such Indemnified Person as a result of or in connection with the transactions contemplated hereby and the use or intended use of the proceeds of the loan proceeds except for liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements directly caused by such Indemnified Person’s gross negligence or willful misconduct.

12.3 Severability of Provisions. Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

12.4 Correction of Loan Documents. Collateral Agent may correct patent errors and fill in any blanks in this Agreement and the other Loan Documents consistent with the agreement of the parties.

12.5 Amendments in Writing; Integration. (a) No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, or any consent to any departure by Borrower or any of its Subsidiaries therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower, Collateral Agent and the Required Lenders provided that:

(i) no such amendment, waiver or other modification that would have the effect of increasing or reducing a Lender’s Term Loan Commitment or Commitment Percentage shall be effective as to such Lender without such Lender’s written consent;

(ii) no such amendment, waiver or modification that would affect the rights and duties of Collateral Agent shall be effective without Collateral Agent’s written consent or signature; and

(iii) no such amendment, waiver or other modification shall, unless signed by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Term Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Term Loan (B) postpone the date fixed for, or waive, any payment of principal of any Term Loan or of interest on any Term Loan (other than default interest) or any fees provided for hereunder (other than late charges or for any termination of any commitment); (C) change the definition of the term "Required Lenders" or the percentage of Lenders which shall be required for the Lenders to take any action hereunder; (D) release all or substantially all of any material portion of the Collateral, authorize Borrower to sell or otherwise dispose of all or substantially all or any material portion of the Collateral or release any Guarantor of all or any portion of the Obligations or its Guaranty obligations with respect thereto, except, in each case with respect to this clause (D), as otherwise may be expressly permitted under this Agreement or the other Loan Documents (including in connection with any disposition permitted hereunder); (E) amend, waive or otherwise modify this Section 12.5 or the definitions of the terms used in this Section 12.5 insofar as the definitions affect the substance of this Section 12.5; (F) consent to the assignment, delegation or other transfer by Borrower of any of its rights and obligations under any Loan Document or release Borrower of its payment obligations under any Loan Document, except, in each case with respect to this clause (F), pursuant to a merger or consolidation permitted pursuant to this Agreement; (G) amend any of the provisions of Section 9.4 or amend any of the definitions of Pro Rata Share, Term Loan Commitment, Commitment Percentage or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments, setoffs or proceeds of Collateral hereunder; (H) subordinate the Liens granted in favor of Collateral Agent securing the Obligations; or (I) amend any of the provisions of Section 12.8. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F), (G) and (H) of the immediately preceding sentence.

(b) Other than as expressly provided for in Section 12.5(a)(i)-(iii), Collateral Agent may, at its discretion, or if requested by the Required Lenders, from time to time designate covenants in this Agreement less restrictive by notification to a representative of Borrower.

(c) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements with respect to such subject matter. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

12.6 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

12.7 Survival. Except as otherwise provided in this Agreement, all covenants, representations and warranties made in this Agreement continue in full force and effect until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied. The obligation of Borrower in Section 12.2 to indemnify each Lender and Collateral Agent, as well as the confidentiality provisions in Section 12.8 below, shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

12.8 Confidentiality. In handling any confidential information of Borrower, each of the Lenders and Collateral Agent shall exercise the same degree of care that it exercises for their own confidential information, but disclosure of information may be made: (a) subject to the terms and conditions of this Agreement, to the Lenders' and Collateral Agent's Subsidiaries or Affiliates, or in connection with a Lender's own financing or securitization transactions and upon the occurrence of a default, event of default or similar occurrence with respect to such financing or securitization transaction; (b) to prospective transferees (other than those identified in (a) above) or purchasers of any interest in the Term Loans (provided, however, the Lenders and Collateral Agent shall, except upon the occurrence and during the continuance of an Event of Default, obtain such prospective transferee's or purchaser's agreement to the terms of this provision or to similar confidentiality terms); (c) as required by law, rule, regulation, regulatory or self-regulatory authority, subpoena, or other order; (d) to Lenders' or Collateral Agent's regulators or as otherwise required in connection with an examination or audit; (e) as Collateral Agent reasonably considers appropriate in exercising remedies under the Loan Documents; and (f) to third party service providers of the Lenders and/or Collateral Agent so long as such service providers have executed a confidentiality agreement or have agreed to similar confidentiality terms with the Lenders and/or Collateral Agent, as applicable, with terms no less restrictive than those contained herein. Confidential information does not include information that either: (i) is in the public domain or in the Lenders' and/or Collateral Agent's possession when disclosed to the Lenders and/or Collateral Agent, or becomes part of the public domain after disclosure to the Lenders and/or Collateral Agent through no breach of this provision by the Lenders or the Collateral Agent; or (ii) is disclosed to the Lenders and/or Collateral Agent by a third party, if the Lenders and/or Collateral Agent does not know that the third party is prohibited from disclosing the information. Collateral Agent and the Lenders may use confidential information for any purpose, including, without limitation, for the development of client databases, reporting purposes, and market analysis. The provisions of the immediately preceding sentence shall survive the termination of this Agreement. The agreements provided under this Section 12.8 supersede all prior agreements, understanding, representations, warranties, and negotiations between the parties about the subject matter of this Section 12.8.

12.9 Right of Set Off. Borrower hereby grants to Collateral Agent and to each Lender, a Lien, security interest and right of set off as security for all Obligations to Secured Parties hereunder, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of any Secured Party or any entity under the control of such Security Party (including a Collateral Agent Affiliate) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, any Secured Party may set off the same or any part thereof and apply the same to any liability or obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE COLLATERAL AGENT TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED BY BORROWER.

12.10 Cooperation of Borrower. If necessary, Borrower agrees to (i) execute any documents reasonably required to effectuate and acknowledge each assignment of a Term Loan Commitment (or portion thereof) or Term Loan (or portion thereof) to an assignee in accordance with Section 12.1, (ii) make Borrower's management personnel available to meet with Collateral Agent and prospective participants and assignees of Term Loan Commitments, the Term Loans or portions thereof (which meetings shall be conducted no more often than twice every twelve months unless an Event of Default has occurred and is continuing), and (iii) assist Collateral Agent and the Lenders in the preparation of information relating to the financial affairs of Borrower as any prospective participant or assignee of a Term Loan Commitment (or portions thereof) or Term Loan (or portions thereof) reasonably may request. Subject to the provisions of Section 12.8, Borrower authorizes each Lender to disclose to any prospective participant or assignee of a Term Loan Commitment (or portions thereof), any and all information in such Lender's possession concerning Borrower and its financial affairs which has been delivered to such Lender by or on behalf of Borrower pursuant to this Agreement, or which has been delivered to such Lender by or on behalf of Borrower in connection with such Lender's credit evaluation of Borrower prior to entering into this Agreement.

12.11 Public Announcement. Subject to Borrower's review and approval, Borrower hereby agrees that Collateral Agent and each Lender may make a public announcement of the transactions contemplated by this Agreement, and may publicize the same in marketing materials, newspapers and other publications, and otherwise, and in connection therewith may use Borrower's name, tradenames and logos. Collateral Agent and the Lenders may also make disclosures to the Securities and Exchange Commission or other governmental agency and any other public disclosure with investors, other governmental agencies or other related persons.

12.12 Collateral Agent and Lender Agreement. Collateral Agent and the Lenders hereby agree to the terms and conditions set forth on Exhibit B attached hereto. Borrower acknowledges and agrees to the terms and conditions set forth on Exhibit B attached hereto.

12.13 Time of Essence. Time is of the essence for the performance of Obligations under this Agreement.

12.14 Termination Prior to Maturity Date; Survival. All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement and for which no claim has been made) in accordance with the terms of this Agreement, this Agreement may be terminated prior to the Maturity Date by Borrower, effective five (5) Business Days after written notice of termination is given to the Collateral Agent and the Lenders.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

NEURONETICS, INC.

By _____
Name: _____
Title: _____

[Signature Page to Loan and Security Agreement]

COLLATERAL AGENT AND LENDER:

SOLAR CAPITAL LTD.

By _____

Name: _____

Title: _____

[Signature Page to Loan and Security Agreement]

LENDERS:

SUNS SPV LLC

By _____

Name: Anthony Storino

Title: Authorized Signatory

SCP PRIVATE CREDIT INCOME FUND SPV LLC

By _____

Name: Anthony Storino

Title: Authorized Signatory

SCP PRIVATE CREDIT INCOME BDC SPV LLC

By _____

Name: Anthony Storino

Title: Authorized Signatory

**SCP PRIVATE CORPORATE LENDING FUND SPV
LLC**

By _____

Name: Anthony Storino

Title: Authorized Signatory

SCP SF DEBT FUND L.P.

By _____

Name: Anthony Storino

Title: Authorized Signatory

[Signature Page to Loan and Security Agreement]

SCHEDULE 1.1

Lenders and Commitments

Term A Loans

Lender	Term Loan Commitment	Commitment Percentage
SLR INVESTMENT CORP.	\$ 15,612,935.51	44.608%
SUNS SPV LLC	\$ 2,399,509.81	6.856%
SCP PRIVATE CREDIT INCOME FUND SPV LLC	\$ 4,096,038.24	11.703%
SCP PRIVATE CREDIT INCOME BDC SPV LLC	\$ 3,055,625.78	8.730%
SCP PRIVATE CORPORATE LENDING FUND SPV LLC	\$ 5,549,578.80	15.856%
SCP CAYMAN DEBT MASTER FUND SPV LLC	\$ 2,374,202.48	6.783%
SCP SF DEBT FUND L.P.	\$ 856,630.02	2.448%
SLR CP SF DEBT FUND SPV LLC	\$ 1,055,479.36	3.016%
TOTAL	\$ 35,000,000.00	100.00%

Term B Loans

Lender	Term Loan Commitment	Commitment Percentage
SLR INVESTMENT CORP.	\$ 1,286,603.24	51.464%
SCP PRIVATE CREDIT INCOME FUND L.P.	\$ 292,574.16	11.703%
SCP PRIVATE CREDIT INCOME BDC LLC	\$ 218,258.98	8.730%
SCP PRIVATE CORPORATE LENDING FUND L.P.	\$ 396,398.49	15.856%
SCP CAYMAN DEBT MASTER FUND L.P.	\$ 169,585.89	6.783%
SCP SF DEBT FUND L.P.	\$ 136,579.24	5.463%
TOTAL	\$ 2,500,000.00	100.00%

Aggregate

Lender	Term Loan Commitment	Commitment Percentage
SLR INVESTMENT CORP.	\$ 16,728,145.19	44.608%
SUNS SPV LLC	\$ 2,570,903.37	6.856%
SCP PRIVATE CREDIT INCOME FUND SPV LLC	\$ 4,388,612.40	11.703%
SCP PRIVATE CREDIT INCOME BDC SPV LLC	\$ 3,273,884.76	8.730%
SCP PRIVATE CORPORATE LENDING FUND SPV LLC	\$ 5,945,977.29	15.856%
SCP CAYMAN DEBT MASTER FUND SPV LLC	\$ 2,543,788.37	6.783%
SCP SF DEBT FUND L.P.	\$ 917,817.88	2.448%
SLR CP SF DEBT FUND SPV LLC	\$ 1,130,870.74	3.016%
TOTAL	\$ 37,500,000.00	100.00%

Term C Loan*

Lender	Term C Loan	Percentage
TOTAL	\$ 22,500,000.00	100%

* Funding of the Term C Loans is subject to approval by the Lenders' investment committee in its sole and unfettered discretion. The "Term C Loans" indicated here are uncommitted amounts

EXHIBIT A

Description of Collateral

The Collateral consists of all of Borrower's right, title and interest in and to the following property:

All goods, Accounts (including health-care receivables), Equipment, Inventory, contract rights or rights to payment of money, leases, license agreements, franchise agreements, General Intangibles, commercial tort claims, documents, instruments (including any promissory notes), chattel paper (whether tangible or electronic), cash, deposit accounts and other Collateral Accounts, all certificates of deposit, fixtures, letters of credit rights (whether or not the letter of credit is evidenced by a writing), securities, and all other investment property, supporting obligations, and financial assets, whether now owned or hereafter acquired, wherever located; and

All Borrower's Books relating to the foregoing, and any and all claims, rights and interests in any of the above and all substitutions for, additions, attachments, accessories, accessions and improvements to and replacements, products, proceeds and insurance proceeds of any or all of the foregoing.

Notwithstanding the foregoing, the Collateral does not include (a) any interest of Borrower as a lessee or sublessee under a real property lease; (b) rights held under a license that are not assignable by their terms without the consent of the licensor thereof (but only to the extent such restriction on assignment is effective under Section 9-406, 9-407, 9-408 or 9-409 of the Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code) or principles of equity); (c) any interest of Borrower as a lessee under an Equipment lease if Borrower is prohibited by the terms of such lease from granting a security interest in such lease or under which such an assignment or Lien would cause a default to occur under such lease; and (d) any "intent to use" United States Trademark applications for which a statement of use or an amendment to allege use has not been filed (but only until such statement is filed) solely to the extent, if any, that, and only during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent to use Trademark applications under applicable federal law provided, however, that upon termination of such prohibition, such interest shall immediately become Collateral without any action by Borrower, Collateral Agent or any Lender.

EXHIBIT B

Collateral Agent and Lender Terms

1. Appointment of Collateral Agent.

(a) Each Lender hereby appoints Solar (together with any successor Collateral Agent pursuant to Section 7 of this Exhibit B) as Collateral Agent under the Loan Documents and authorizes Collateral Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from Borrower, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Collateral Agent under such Loan Documents and (iii) exercise such powers as are reasonably incidental thereto.

(b) Without limiting the generality of clause (a) above, Collateral Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Lender is hereby authorized to make such payment to Collateral Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of Collateral Agent and Lenders with respect to any Obligation in any bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Lender), (iii) act as collateral agent for the Secured Parties for purposes of the perfection of all Liens created by the Loan Documents and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral as permitted pursuant to the Loan Agreement, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document, exercise all remedies given to Collateral Agent and the other Lenders with respect to the Borrower and/or the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (vii) execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Collateral Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Collateral Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any Deposit Account maintained by Borrower or any Guarantor with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Collateral Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed. Collateral Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Lender). Any such Person shall benefit from this Exhibit B to the extent provided by Collateral Agent.

(c) Under the Loan Documents, Collateral Agent (i) is acting solely on behalf of the Lenders, with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Collateral Agent", the terms "agent", "Collateral Agent" and "collateral agent" and similar terms in any Loan Document to refer to Collateral Agent, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Lender, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Collateral Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above. Except as expressly set forth in the Loan Documents, Collateral Agent shall not have any duty to disclose, and shall not be liable for failure to disclose, any information relating to Borrower or any of its Subsidiaries that is communicated to or obtained by Solar or any of its Affiliates in any capacity.

2. Binding Effect; Use of Discretion; E-Systems.

(a) Each Lender, by accepting the benefits of the Loan Documents, agrees that (i) any action taken by Collateral Agent or the Required Lenders (or, if expressly required in any Loan Document, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken by Collateral Agent in reliance upon the instructions of the Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by Collateral Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of Lenders.

(b) If Collateral Agent shall request instructions from the Required Lenders or all affected Lenders with respect to any act or action (including failure to act) in connection with any Loan Document, then Collateral Agent shall be entitled to refrain from such act or taking such action unless and until Collateral Agent shall have received instructions from the Required Lenders or all affected Lenders, as the case may be, and Collateral Agent shall not incur liability to any Person by reason of so refraining. Collateral Agent shall be fully justified in failing or refusing to take any action under any Loan Document (i) if such action would, in the opinion of Collateral Agent, be contrary to any Requirement of Law or any Loan Document, (ii) if such action would, in the opinion of Collateral Agent, expose Collateral Agent to any potential liability under any Requirement of Law or (iii) if Collateral Agent shall not first be indemnified to its satisfaction against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Collateral Agent as a result of Collateral Agent acting or refraining from acting under any Loan Document in accordance with the instructions of the Required Lenders or all affected Lenders, as applicable.

(c) Collateral Agent is hereby authorized by Borrower and each Lender to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Term Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Collateral Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents (including, without limitation, borrowing base certificates) and similar items on, by posting to or submitting and/or completion, on E-Systems. Borrower and each Lender acknowledges and agrees that the use of transmissions via an E-System or electronic mail is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse, and Borrower and each Lender assumes and accepts such risks by hereby authorizing the transmission via E-Systems or electronic mail. Each "e-signature" on any such posting shall be deemed sufficient to satisfy any requirement for a "signature", and each such posting shall be deemed sufficient to satisfy any requirement for a "writing", in each case including pursuant to any Loan Document, any applicable provision of any Code, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter. All uses of an E-System shall be governed by and subject to, in addition to this Section, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related contractual obligations executed by Collateral Agent, Borrower and/or Lenders in connection with the use of such E-System. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED "AS IS" AND "AS AVAILABLE". NO REPRESENTATION OR WARRANTY OF ANY KIND IS MADE BY AGENT, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS.

3. Collateral Agent's Reliance, Etc. Collateral Agent may, without incurring any liability hereunder, (a) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, Borrower) and (b) rely and act upon any document and information (including those transmitted by electronic transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties. None of Collateral Agent and its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Lender and Borrower hereby waives and shall not assert (and Borrower shall cause its Subsidiaries to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting from the gross negligence or willful misconduct of Collateral Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment of a court of competent jurisdiction) in connection with the duties of Collateral Agent expressly set forth herein. Without limiting the foregoing, Collateral Agent: (i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons, except to the extent that a court of competent jurisdiction determines in a final non-appealable judgment that Collateral Agent acted with gross negligence or willful misconduct in the selection of such Related Person; (ii) shall not be responsible to any Lender or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document; (iii) makes no warranty or representation, and shall not be responsible, to any Lender or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of Borrower or any Related Person of Borrower in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to Borrower, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by Collateral Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Collateral Agent in connection with the Loan Documents; and (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of Borrower or as to the existence or continuation or possible occurrence or continuation of any Event of Default, and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from Borrower or any Lender describing such Event of Default that is clearly labeled "notice of default" (in which case Collateral Agent shall promptly give notice of such receipt to all Lenders, provided that Collateral Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Collateral Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction); and, for each of the items set forth in clauses (i) through (iv) above, each Lender and Borrower hereby waives and agrees not to assert (and Borrower shall cause its Subsidiaries to waive and agree not to assert) any right, claim or cause of action it might have against Collateral Agent based thereon.

4. Collateral Agent Individually. Collateral Agent and its Affiliates may make loans and other extensions of credit to, acquire stock and stock equivalents of, engage in any kind of business with, Borrower or any Affiliate of Borrower as though it were not acting as Collateral Agent and may receive separate fees and other payments therefor. To the extent Collateral Agent or any of its Affiliates makes any Term Loans or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "Lender", "Required Lender" and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, Collateral Agent or such Affiliate, as the case may be, in its individual capacity as Lender, or as one of the Required Lenders.

5. Lender Credit Decision; Collateral Agent Report. Each Lender acknowledges that it shall, independently and without reliance upon Collateral Agent, any Lender or any of their Related Persons or upon any document solely or in part because such document was transmitted by Collateral Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of Borrower and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by Collateral Agent to the Lenders, Collateral Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of Borrower or any Affiliate of Borrower that may come in to the possession of Collateral Agent or any of its Related Persons. Each Lender agrees that it shall not rely on any field examination, audit or other report provided by Collateral Agent or its Related Persons (an "Collateral Agent Report"). Each Lender further acknowledges that any Collateral Agent Report (a) is provided to the Lenders solely as a courtesy, without consideration, and based upon the understanding that such Lender will not rely on such Collateral Agent Report, (b) was prepared by Collateral Agent or its Related Persons based upon information provided by Borrower solely for Collateral Agent's own internal use, and (c) may not be complete and may not reflect all information and findings obtained by Collateral Agent or its Related Persons regarding the operations and condition of Borrower. Neither Collateral Agent nor any of its Related Persons makes any representations or warranties of any kind with respect to (i) any existing or proposed financing, (ii) the accuracy or completeness of the information contained in any Collateral Agent Report or in any related documentation, (iii) the scope or adequacy of Collateral Agent's and its Related Persons' due diligence, or the presence or absence of any errors or omissions contained in any Collateral Agent Report or in any related documentation, and (iv) any work performed by Collateral Agent or Collateral Agent's Related Persons in connection with or using any Collateral Agent Report or any related documentation. Neither Collateral Agent nor any of its Related Persons shall have any duties or obligations in connection with or as a result of any Lender receiving a copy of any Collateral Agent Report. Without limiting the generality of the foregoing, neither Collateral Agent nor any of its Related Persons shall have any responsibility for the accuracy or completeness of any Collateral Agent Report, or the appropriateness of any Collateral Agent Report for any Lender's purposes, and shall have no duty or responsibility to correct or update any Collateral Agent Report or disclose to any Lender any other information not embodied in any Collateral Agent Report, including any supplemental information obtained after the date of any Collateral Agent Report. Each Lender releases, and agrees that it will not assert, any claim against Collateral Agent or its Related Persons that in any way relates to any Collateral Agent Report or arises out of any Lender having access to any Collateral Agent Report or any discussion of its contents, and agrees to indemnify and hold harmless Collateral Agent and its Related Persons from all claims, liabilities and expenses relating to a breach by any Lender arising out of such Lender's access to any Collateral Agent Report or any discussion of its contents.

6. Indemnification. Each Lender agrees to reimburse Collateral Agent and each of its Related Persons (to the extent not reimbursed by Borrower as required under the Loan Documents (including pursuant to Section 12.2 of the Agreement)) promptly upon demand for its Pro Rata Share of any out-of-pocket costs and expenses (including, without limitation, fees, charges and disbursements of financial, legal and other advisors and any Taxes or insurance paid in the name of, or on behalf of, Borrower) incurred by Collateral Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, amendment, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including, without limitation, preparation for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document. Each Lender further agrees to indemnify Collateral Agent and each of its Related Persons (to the extent not reimbursed by

Borrower as required under the Loan Documents (including pursuant to Section 12.2 of the Agreement)), ratably according to its Pro Rata Share, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, to the extent not indemnified by the applicable Lender, Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by, or asserted against Collateral Agent or any of its Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Collateral Agent or any of its Related Persons under or with respect to the foregoing; provided that no Lender shall be liable to Collateral Agent or any of its Related Persons under this Section 6 of this Exhibit B to the extent such liability has resulted from the gross negligence or willful misconduct of Collateral Agent or, as the case may be, such Related Person, as determined by a final non-appealable judgment of a court of competent jurisdiction. To the extent required by any applicable Requirement of Law, Collateral Agent may withhold from any payment to any Lender under a Loan Document an amount equal to any applicable withholding Tax. If the IRS or any other Governmental Authority asserts a claim that Collateral Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason, or if Collateral Agent reasonably determines that it was required to withhold Taxes from a prior payment to or for the account of any Lender but failed to do so, such Lender shall promptly indemnify Collateral Agent fully for all amounts paid, directly or indirectly, by Collateral Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Collateral Agent. Collateral Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which Collateral Agent is entitled to indemnification from such Lender under the immediately preceding sentence of this Section 6 of this Exhibit B.

7. Successor Collateral Agent. Collateral Agent may resign at any time by delivering notice of such resignation to the Lenders and Borrower, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective, in accordance with the terms of this Section 7 of this Exhibit B. If Collateral Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Collateral Agent. If, after 30 days after the date of the retiring Collateral Agent's notice of resignation, no successor Collateral Agent has been appointed by the Required Lenders and has accepted such appointment, then the retiring Collateral Agent may, on behalf of the Lenders, appoint a successor Collateral Agent from among the Lenders. Effective immediately upon its resignation, (a) the retiring Collateral Agent shall be discharged from its duties and obligations under the Loan Documents, (b) the Lenders shall assume and perform all of the duties of Collateral Agent until a successor Collateral Agent shall have accepted a valid appointment hereunder, (c) the retiring Collateral Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Collateral Agent was, or because such Collateral Agent had been, validly acting as Collateral Agent under the Loan Documents, and (iv) subject to its rights under Section 2(b) of this Exhibit B, the retiring Collateral Agent shall take such action as may be reasonably necessary to assign to the successor Collateral Agent its rights as Collateral Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Collateral Agent, a successor Collateral Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Collateral Agent under the Loan Documents.

8. Release of Collateral. Each Lender hereby consents to the release and hereby directs Collateral Agent to release (or in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Guarantor if all of the stock of such Subsidiary owned by Borrower is sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a valid waiver or consent), to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Obligations pursuant to any Loan Document; and

(b) any Lien held by Collateral Agent for the benefit of the Secured Parties against (i) any Collateral that is sold or otherwise disposed of by Borrower in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), (ii) any Collateral subject to a Lien that is expressly permitted under clause (c) of the definition of the term "Permitted Lien" and (iii) all of the Collateral and Borrower, upon (A) termination of all of the Commitments, (B) the payment in full in cash of all of the Obligations (other than inchoate indemnity obligations for which no claim has been made), and (C) to the extent requested by Collateral Agent, receipt by Collateral Agent and Lenders of liability releases from Borrower in form and substance acceptable to Collateral Agent (the satisfaction of the conditions in this clause (iii), the "**Termination Date**").

9. Setoff and Sharing of Payments. In addition to any rights now or hereafter granted under any applicable Requirement of Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default and subject to Section 10(d) of this Exhibit B, each Lender is hereby authorized at any time or from time to time upon the direction of Collateral Agent, without notice to Borrower or any other Person, any such notice being hereby expressly waived, to setoff and to appropriate and to apply any and all balances held by it at any of its offices for the account of Borrower (regardless of whether such balances are then due to Borrower) and any other properties or assets at any time held or owing by that Lender or that holder to or for the credit or for the account of Borrower against and on account of any of the Obligations that are not paid when due. Any Lender exercising a right of setoff or otherwise receiving any payment on account of the Obligations in excess of its Pro Rata Share thereof shall purchase for cash (and the other Lenders or holders shall sell) such participations in each such other Lender's or holder's Pro Rata Share of the Obligations as would be necessary to cause such Lender to share the amount so offset or otherwise received with each other Lender or holder in accordance with their respective Pro Rata Shares of the Obligations. Borrower agrees, to the fullest extent permitted by law, that (a) any Lender may exercise its right to offset with respect to amounts in excess of its Pro Rata Share of the Obligations and may purchase participations in accordance with the preceding sentence and (b) any Lender so purchasing a participation in the Term Loans made or other Obligations held by other Lenders or holders may exercise all rights of offset, bankers' liens, counterclaims or similar rights with respect to such participation as fully as if such Lender or holder were a direct holder of the Term Loans and the other Obligations in the amount of such participation. Notwithstanding the foregoing, if all or any portion of the offset amount or payment otherwise received is thereafter recovered from the Lender that has exercised the right of offset, the purchase of participations by that Lender shall be rescinded and the purchase price restored without interest.

10. Advances; Payments; Non-Funding Lenders; Actions in Concert.

(a) Advances; Payments. If Collateral Agent receives any payment with respect to a Term Loan for the account of the Lenders on or prior to 2:00 p.m. (New York time) on any Business Day, Collateral Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on such Business Day. If Collateral Agent receives any payment with respect to a Term Loan for the account of Lenders after 2:00 p.m. (New York time) on any Business Day, Collateral Agent shall pay to each applicable Lender such Lender's Pro Rata Share of such payment on the next Business Day.

(b) Return of Payments.

(i) If Collateral Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Collateral Agent or on behalf of from Borrower and such related payment is not received by Collateral Agent, then Collateral Agent will be entitled to recover such amount (including interest accruing on such amount at the rate otherwise applicable to such Obligation) from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Collateral Agent determines at any time that any amount received by Collateral Agent under any Loan Document must be returned to Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of any Loan Document, Collateral Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Collateral Agent on demand any portion of such amount that Collateral Agent has distributed to such Lender, together with interest at such rate, if any, as Collateral Agent is required to pay to Borrower or such other Person, without setoff, counterclaim or deduction of any kind and Collateral Agent will be entitled to set off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(c) Actions in Concert. Anything in this Agreement to the contrary notwithstanding, each Lender hereby agrees with each other Lender that no Lender shall take any action to protect or enforce its rights arising out of any Loan Document (including exercising any rights of setoff) without first obtaining the prior written consent of Collateral Agent or Required Lenders, it being the intent of Lenders that any such action to protect or enforce rights under any Loan Document shall be taken in concert and at the direction or with the consent of Collateral Agent or Required Lenders.

EXHIBIT C

Taxes; Increased Costs.

1. Defined Terms. For purposes of this Exhibit C:

(a) “**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.

(b) “**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, (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (A) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (B) that are Other Connection Taxes, (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Term Loan or Term Loan Commitment pursuant to a law in effect on the date on which (A) such Lender acquires such interest in the Term Loan or Term Commitment or (B) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2 or Section 4 of this Exhibit C, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) Taxes attributable to such Recipient’s failure to comply with Section 7 of this Exhibit C and (iv) any withholding Taxes imposed under FATCA.

(c) “**FATCA**” means Sections 1471 through 1474 of the Internal Revenue 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 Internal Revenue Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Internal Revenue Code.

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

(e) “**Indemnified Taxes**” means (i) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under any Loan Document and (ii) to the extent not otherwise described in clause (i), Other Taxes.

(f) “**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 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).

(g) “**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.

(h) “**Recipient**” means Collateral Agent or any Lender, as applicable.

(i) “U.S. Person” means any Person that is a “United States person” as defined in Section 7701(a)(30) of the Internal Revenue Code.

(j) “Withholding Agent” means Borrower and Collateral Agent.

2. Payments Free of Taxes. Any and all payments by or on account of any obligation of Borrower under any Loan Document 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 an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent 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 Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2 or Section 4 of this Exhibit C) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

3. Payment of Other Taxes by Borrower. Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of Collateral Agent timely reimburse it for the payment of, any Other Taxes.

4. Indemnification by Borrower. Borrower shall indemnify each Recipient, within 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 Section 2 of this Exhibit C or this Section 4) 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, 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 Borrower by a Lender (with a copy to Collateral Agent), or by Collateral Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

5. Indemnification by the Lenders. Each Lender shall severally indemnify Collateral Agent, within 10 days after demand therefor, for (a) any Indemnified Taxes attributable to such Lender (but only to the extent that Borrower has not already indemnified Collateral Agent for such Indemnified Taxes and without limiting the obligation of Borrower to do so), (b) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 12.1 of the Agreement relating to the maintenance of a Participant Register and (c) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Collateral 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 Collateral Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Collateral 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 Collateral Agent to the Lender from any other source against any amount due to Collateral Agent under this Section 5.

6. Evidence of Payments. As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to the provisions of this Exhibit C, Borrower shall deliver to Collateral Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Collateral Agent.

7. Status of Lenders.

(a) 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 Borrower and Collateral Agent, at the time or times reasonably requested by Borrower or Collateral Agent, such properly completed and executed documentation reasonably requested by Borrower or Collateral 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 Borrower or Collateral Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by Borrower or Collateral Agent as will enable Borrower or Collateral 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 Sections 7(b)(i), 7(b)(ii) and 7(b)(iv) of this Exhibit C) 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.

(b) Without limiting the generality of the foregoing, in the event that Borrower is a U.S. Person,

(i) any Lender that is a U.S. Person shall deliver to Borrower and Collateral 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 Borrower or Collateral Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(ii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Collateral 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 Borrower or Collateral Agent), whichever of the following is applicable:

- (A) 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, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E 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, IRS Form W-8BEN or IRS Form W-8BEN-E 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;
- (B) executed copies of IRS Form W-8ECI;
- (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate, in form and substance reasonably acceptable to Borrower and Collateral Agent, to the effect that such Foreign Lender (or other applicable Person) is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a "10 percent shareholder" of Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code, or a "controlled foreign corporation" related to Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code (a "**U.S. Tax Compliance Certificate**") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or

- (D) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate, IRS Form W-9, 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;

(iii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Collateral 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 Borrower or Collateral 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 Borrower or Collateral Agent to determine the withholding or deduction required to be made;

(iv) 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 Internal Revenue Code, as applicable), such Lender shall deliver to Borrower and Collateral Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or Collateral Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by Borrower or Collateral Agent as may be necessary for Borrower and Collateral Agent to comply with their 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 (iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement; and

(v) each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Collateral Agent in writing of its legal inability to do so.

8. Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to the provisions of this Exhibit C (including by the payment of additional amounts pursuant to the provisions of this Exhibit C), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under the provisions of this Exhibit C 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 request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 8 (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 8, in no

event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 8 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 with respect to such Tax had never been paid. This Section 8 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.

9. Increased Costs. If any change in applicable law shall subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (iv) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, and the result shall be to increase the cost to such Recipient of making, converting to, continuing or maintaining any Term Loan or of maintaining its obligation to make any such Term Loan, or to reduce the amount of any sum received or receivable by such Recipient (whether of principal, interest or any other amount), then, upon the request of such Recipient, Borrower will pay to such Recipient such additional amount or amounts as will compensate such Recipient for such additional costs incurred or reduction suffered.

10. Survival. Each party's obligations under the provisions of this Exhibit C shall survive the resignation or replacement of Collateral Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Term Loan Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

EXHIBIT D

Loan Payment Request Form

Fax To: (212) 993-1698

Date:

LOAN PAYMENT:

Neuronetics, Inc.

From Account # _____
(Deposit Account #)

To Account # _____
(Loan Account #)

Principal \$ _____

and/or Interest \$ _____

Authorized Signature: _____

Phone Number: _____

Print Name/Title: _____

LOAN ADVANCE:

Complete *Outgoing Wire Request* section below if all or a portion of the funds from this loan advance are for an outgoing wire.

From Account # _____
(Loan Account #)

To Account # _____
(Deposit Account #)

Amount of Advance \$ _____

All Borrower's representations and warranties in the Loan and Security Agreement are true, correct and complete in all material respects on the date of the request for an advance; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date:

Authorized Signature: _____

Phone Number: _____

Print Name/Title: _____

OUTGOING WIRE REQUEST:

Complete only if all or a portion of funds from the loan advance above is to be wired.

Beneficiary Name: _____

Amount of Wire: \$ _____

Beneficiary Bank: _____

Account Number: _____

City and State: _____

Beneficiary Bank Transit (ABA) #: _____

Beneficiary Bank Code (Swift, Sort, Chip, etc.): _____

(For International Wire Only)

Intermediary Bank: _____

Transit (ABA) #: _____

For Further Credit to: _____

Special Instruction: _____

By signing below, I (we) acknowledge and agree that my (our) funds transfer request shall be processed in accordance with and subject to the terms and conditions set forth in the agreements(s) covering funds transfer service(s), which agreements(s) were previously received and executed by me (us).

Authorized Signature: _____

2nd Signature (if required): _____

Print Name/Title: _____

Print Name/Title: _____

Telephone #: _____

Telephone #: _____]

EXHIBIT E

Compliance Certificate

TO: SOLAR CAPITAL LTD., as Collateral Agent and Lender

FROM: Neuronetics, Inc.

The undersigned authorized officer (“**Officer**”) of Neuronetics, Inc. (“**Borrower**”), hereby certifies that in accordance with the terms and conditions of the Loan and Security Agreement dated as of March 2, 2020, by and among Borrower, Collateral Agent, and the Lenders from time to time party thereto (the “**Loan Agreement**,” capitalized terms used but not otherwise defined herein shall have the meanings given them in the Loan Agreement),

(a) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below;

(b) There are no Events of Default, except as noted below;

(c) Except as noted below, all representations and warranties of Borrower stated in the Loan Documents are true and correct in all material respects on this date and for the period described in (a), above; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date.

(d) Borrower, and each of Borrower’s Subsidiaries, has timely filed all required tax returns and reports; Borrower, and each of Borrower’s Subsidiaries, has timely paid all foreign, federal, state, and local Taxes, assessments, deposits and contributions owed by Borrower, or Subsidiary, except as otherwise permitted pursuant to the terms of Section 5.8 of the Loan Agreement;

(e) No Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Collateral Agent and the Lenders.

Attached are the required documents, if any, supporting Borrower’s certification(s). The Officer, on behalf of Borrower, further certifies that the attached financial statements are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes and except, in the case of unaudited financial statements, for the absence of footnotes and subject to year-end audit adjustments as to the interim financial statements.

Please indicate compliance status since the last Compliance Certificate by circling Yes, No, or N/A under “Complies” column.

	Reporting Covenant	Requirement	Actual	Complies		
1)	Monthly financial statements	Monthly within 30 days		Yes	No	N/A
2)	Quarterly financial statements	Quarterly within 45 days		Yes	No	N/A
3)	Annual (CPA Audited) statements	Within 90 days after FYE		Yes	No	N/A
4)	Annual Financial Projections/Budget (prepared on a monthly basis)	Annually (within earlier of 10 days of approval or 60 days after FYE), and when revised		Yes	No	N/A
5)	A/R & A/P agings	If applicable		Yes	No	N/A
6)	8-K, 10-K and 10-Q Filings	within 5 days of filing		Yes	No	N/A
7)	Compliance Certificate	Monthly within 30 days		Yes	No	N/A
8)	IP Report	When required		Yes	No	N/A
9)	Total amount of Borrower's cash and cash equivalents at the last day of the measurement period		\$ _____	Yes	No	N/A
10)	Total amount of Borrower's Subsidiaries' cash and cash equivalents at the last day of the measurement period		\$ _____	Yes	No	N/A

Deposit and Securities Accounts

(Please list all accounts; attach separate sheet if additional space needed)

	Institution Name	Account Number	New Account?		Account Control Agreement in place?		
			Yes	No	Yes	No	N/A
1)			Yes	No	Yes	No	N/A
2)			Yes	No	Yes	No	N/A
3)			Yes	No	Yes	No	N/A
4)			Yes	No	Yes	No	N/A

Financial Covenants

Minimum Liquidity Requirement	(A) Qualified Cash \$ _____	(B) A/P not paid within 90 days from invoice date \$ _____	Complies with Minimum Liquidity Requirement (Is (A) greater than or equal to \$10,000,000 plus (B))? Y N N/A
Minimum Product Revenue (period ending _____)	(A) Actual Product Revenue \$ _____	(B) Minimum Product Revenue per Section 7.13(b) \$ _____	Complies with Minimum Product Revenue (Is (A) greater than or equal to (B))? Y N N/A

Other Matters

- | | | | |
|----|--|-----|----|
| 1) | Have there been any changes in Key Persons since the last Compliance Certificate? | Yes | No |
| 2) | Have there been any transfers/sales/disposals/retirement of Collateral or IP prohibited by the Loan Agreement? | Yes | No |
| 3) | Have there been any new or pending claims or causes of action against Borrower that involve more than One Hundred Thousand Dollars (\$100,000.00)? | Yes | No |
| 4) | Have there been any amendments of or other changes to the capitalization table of Borrower and to the Operating Documents of Borrower or any of its Subsidiaries? If yes, provide copies of any such amendments or changes with this Compliance Certificate. | Yes | No |
| 5) | Has Borrower or any Subsidiary entered into or amended any Material Agreement? If yes, please explain and provide a copy of the Material Agreement(s) and/or amendment(s). | Yes | No |
| 6) | Has Borrower provided the Collateral Agent with all notices required to be delivered under Sections 6.2(a) and 6.2(c) of the Loan Agreement? | Yes | No |

Exceptions

Please explain any exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions." Attach separate sheet if additional space needed.)

NEURONETICS, INC.

By: _____

Name: _____

Title: _____

Date:

COLLATERAL AGENT USE ONLY

Received by: _____ Date: _____

Verified by: _____ Date: _____

Compliance Status: Yes No

EXHIBIT I

ACH LETTER

SLR INVESTMENT CORP.
500 Park Avenue, 3rd Floor
New York, NY 10022
Attention: Anthony Storino
Fax: (212) 993-1698
Email: storino@solarcapital.com

Re: Loan and Security Agreement dated as of March 2, 2020 (the "Agreement") by and among Neuronetics, Inc. ("Borrower"), SLR Investment Corp. (formerly, Solar Capital Ltd.) ("Solar"), as collateral agent (in such capacity, "Collateral Agent") and the Lenders listed on Schedule 1.1 thereof or otherwise a party thereto from time to time, including Solar in its capacity as a Lender and Collateral Agent (each a "Lender" and collectively, the "Lenders"). Capitalized terms used but not otherwise defined herein shall have the meanings given them under the Agreement.

In connection with the above referenced Agreement, the Borrower hereby authorizes the Collateral Agent to, at its discretion and with prior notice of at least one (1) Business Day, initiate debit entries to the Borrower's account indicated below (i) on each payment date of all Obligations then due and owing, (ii) at any time any payment due and owing with respect to Lender Expenses, and (iii) upon an Event of Default, any other Obligations outstanding, in each case pursuant to Section 2.3(e) of the Agreement. The Borrower authorizes the depository institution named below to debit to such account.

DEPOSITORY NAME	BRANCH
CITY	STATE AND ZIP CODE
TRANSIT/ABA NUMBER	ACCOUNT NUMBER

This authority will remain in full force and effect so long as any amounts are due under the Agreement.

NEURONETICS, INC.

By: _____

Title: _____

Date: _____

Exhibit B

CERTAIN INFORMATION IDENTIFIED WITH THE MARK “[*]” HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE SUCH INFORMATION IS BOTH (I) NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.**

SECURED PROMISSORY NOTE AND GUARANTY AGREEMENT

\$6,000,000.00

March 31, 2023

WHEREAS, TMS NEUROHEALTH CENTERS INC., a Delaware corporation (the “**Maker**”) and NEURONETICS, INC., a Delaware corporation (the “**Payee**,” which term will also include any subsequent holder of this Note) are party to that certain Amended and Restated Master Sales Agreement between the Payee and the Maker, dated as of January 17, 2023 (as amended by that certain Amendment to Amended and Restated Master Sales Agreement dated as of March 16, 2023, and as may be further amended, restated, supplemented or otherwise modified from time to time in accordance with its terms, the “**Commercial Agreement**”);

WHEREAS, as of the date hereof, the Maker and its Affiliates have an outstanding balance in the aggregate amount of \$[***] (the “**Commercial Agreement Outstanding A/R Balance**”) owing to Payee under the Commercial Agreement;

WHEREAS, the Maker has requested that the Payee advance to the Maker a loan in the aggregate principal amount of Six Million Dollars \$6,000,000.00, subject to the terms and conditions herein, and the proceeds of the loan will be used, in part, to repay the Commercial Agreement Outstanding A/R Balance;

WHEREAS, in connection with the foregoing, the Payee has requested that GREENBROOK TMS INC., an Ontario corporation (the “**Parent Guarantor**”) and certain of its Subsidiaries (other than the Maker) identified on the signature pages hereto (the “**Subsidiary Guarantors**”, and collectively the Subsidiary Guarantors with the Parent Guarantor, each a “**Guarantor**” and together the “**Guarantors**” and the Guarantors collectively with the Maker, each a “**Loan Party**” and together the “**Loan Parties**”) guarantee the obligations of the Maker to the Payee under this Note and the Related Documents and the Guarantors have agreed to provide such guarantee as set forth herein;

NOW, THEREFORE, FOR VALUE RECEIVED, Maker unconditionally promises to pay to the order of Payee, the principal sum of Six Million Dollars (\$6,000,000.00), together with interest until paid, as set forth herein.

1. Principal Payments.

(a) The Maker will pay the unpaid principal balance of this Note to the Payee in forty-five (45) equal monthly installments in the amount of One Hundred Thirty Three Thousand Three Hundred Thirty Three and 33/100 Dollars (\$133,333.33) each, which installments will be due and payable on the first (1st) day of each month (each such day a “**Payment Date**”), beginning on July 1, 2023 and on the first (1st) day of each consecutive month thereafter with the remaining principal balance of this Note to be paid on the Maturity Date.

(b) Unless sooner paid in full, the entire unpaid principal balance of this Note, together with all outstanding and unpaid accrued interest, late charges, fees and Collection Costs will be due and payable by the Maker to the Payee on March 31, 2027 (the “**Maturity Date**”); provided that if the maturity date under the Madryn Loan Agreement is amended, the Maturity Date shall automatically be deemed to be the date that is one hundred eighty-three (183) days prior to such new maturity date under the Madryn Loan Agreement.

2. Interest Payments.

(a) Interest will accrue and be payable on the outstanding and unpaid principal balance of this Note at the floating interest rate of Daily Simple SOFR plus seven and 65/100 percent (7.65%) per annum. Interest will accrue based on a 360-day year for the actual number of days the principal is outstanding. The Payee will deliver an invoice to Maker each month with the amount of interest payment due for such month, which invoice shall be conclusive absent manifest error; provided that failure to deliver such an invoice shall not relieve Payor of its payment obligation pursuant to this Section 2(a).

As used in this Note:

“**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 (A) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (B) 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 Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) (the “**SOFR Administrator**”) on the SOFR Administrator’s Website and (b) 0.00%; provided that 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 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 further that SOFR as determined pursuant to this proviso shall be utilized for purposes of calculation of Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. 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 Maker.

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

“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.

(b) The Maker will make payments of the accrued and unpaid interest on the unpaid principal balance of this Note to the Payee in arrears as follows:

(i) monthly, on the earlier of (x) each Payment Date and (y) within two (2) days of receipt of an invoice from the Payee of the interest payment due for the prior month; and

(ii) on the Maturity Date;

provided that, notwithstanding the foregoing, the amount of interest that accrues on this Note from the date of this Note to and including June 30, 2023 shall be due and payable on July 1, 2023.

(c) If a prepayment of principal is made on this Note, the Maker will pay to the Payee, on the date of the prepayment, all accrued and unpaid interest on the principal amount prepaid.

(d) For purposes of the *Interest Act* (Canada), (i) whenever any interest or fee under this Note is calculated using a rate based on a year of 360 days or 365 days (or such other period that is less than a calendar year), as the case may be, the rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360 days or 365 days (or such other period that is less than a calendar year), as the case may be, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by 360 or 365 (or such other period that is less than a calendar year), as the case may be, (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Note, and (iii) the rates of interest stipulated in this Note are intended to be nominal rates and not effective rates or yields.

3. Default Interest. Upon and after the occurrence of an Event of Default, interest will accrue and be payable on the unpaid principal balance of this Note at the interest rate per annum that is [***] plus the interest rate otherwise applicable to this Note (the “**Default Interest Rate**”). Interest will continue to accrue and be payable on the unpaid principal balance of this Note after the commencement, and during the pendency, of any case, whether voluntary or involuntary, with respect to the Maker under the United States Bankruptcy Code or under similar law or any other law of any jurisdiction regarding bankruptcy, insolvency, assignment for the benefit of creditors, receivership, conservatorship, moratorium, rearrangement, reorganization, liquidation or similar debtor relief (such laws “**Debtor Relief Laws**”).

4. Late Charges. If any scheduled payment of principal or interest due under this Note is not paid within fifteen (15) days after the date that the payment is due, the Maker will pay to the Payee a late charge equal to [***] of the amount past due. The 15-day period provided in the preceding sentence is not a grace or cure period and the Payee will be entitled to exercise all of the Payee's rights and remedies upon the occurrence of an Event of Default regardless of whether a late charge is due or is paid. The Maker will pay the late charge to the Payee within ten (10) days after the Payee's written request for payment of the late charge, which request may be made by the Payee including the late charge in the amount or amounts due on a billing statement given to the Maker or in another writing from the Payee to the Maker.

5. Manner of Payment. All payments will be made in United States of America ("United States") dollars in immediately available funds without defense, set-off, counterclaim or deduction of any kind on the due dates of such payments. Payments will be made to the Payee's address set forth in this Note (or such other payment address as may be designated by the Payee upon written notice to the Maker) by 11:00 a.m. (time at the payment address) on the due date for such payments. If any payment on this Note will be due and payable on any day that is not a Business Day, such payment will be deemed due on the next following Business Day, and interest will be payable at the interest rate on this Note (including the Default Interest Rate, as applicable) through such Business Day. Payment received by the Payee at the payment address after 11:00 a.m. (time at the payment address) will be deemed to have been made on the next Business Day after such receipt in the Payee's discretion. Any payments by check will be accepted subject to collection in immediately available funds. Payments will be applied to interest, principal, late charges, fees and Collection Costs (herein defined) in such order as the Payee may determine in the Payee's discretion. If at any time any payment made by the Maker under this Note is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of the Maker or for any other reason, the Maker's obligation to make such payment under this Note will be reinstated as though such payment had not been made. As used in this Note, "**Business Day**" means any day that is (a) a Monday, Tuesday, Wednesday, Thursday or Friday on which banks in the Governing Jurisdiction (herein defined) are open for the transaction of a substantial part of their commercial banking business and (b) not a legal holiday in the Governing Jurisdiction.

6. Prepayments.

(a) [***].

(b) [***].

7. Collection Costs. Within ten (10) days after the Payee's written request from time to time, the Maker will pay, or provide the Payee with sufficient funds for the payment of, or reimburse the Payee for the payment of, the Payee's Collection Costs. As used in this Note, "**Collection Costs**" means the Payee's costs and expenses (including, without limitation, reasonable attorneys' fees and other legal expenses, and the fees and expenses of other professionals, including experts, consultants, accountants, appraisers, surveyors, engineers, receivers, monitors, trustees, warehousemen and auctioneers) actually incurred by the Payee in (a) collecting or attempting to collect the Obligations (as used in this Note, "**Obligations**" means

the principal, interest and other amounts owed to the Payee under this Note and the Related Documents), (b) enforcing or defending the Payee's rights, and exercising any remedies, under this Note or under any Related Document (as used in this Note, "**Related Document**" means the Security Documents, the Intercreditor Agreement, each Warrant, each guaranty, security agreement, agreement, instrument or document that any entered into in connection herewith or that otherwise evidences any of the Obligations) or under any law, or (c) enforcing the Payee's rights, and exercising the Payee's remedies, with respect to any Collateral (as used in this Note, "**Collateral**" means any personal property, real property, intangible property or fixtures in which the Payee has been granted a security interest or lien to secure this Note or the Obligations or to secure any guarantee thereof, including without limitation all assets of the Loan Parties in which Payee has been granted a security interest pursuant to the Security Documents. If the Maker fails to pay or reimburse the Payee for Collection Costs as herein provided, and the Payee will pay, or will have paid or advanced, such Collection Costs (the Payee being hereby authorized, but not obligated, to pay or advance such Collection Costs), the Payee will be entitled to add the amount of such Collection Costs to the amount of principal outstanding under this Note and thereafter charge interest thereon at the interest rate applicable (including the Default Interest Rate as applicable) to the outstanding principal balance of this Note. If the Payee adds the amount of Collection Costs that are not paid or reimbursed by the Maker to the amount of principal outstanding under this Note as provided in this Section, neither the addition of such unpaid amount to the principal outstanding under this Note, nor the charging of interest thereon, will relieve the Maker of any Event of Default for failure to pay Collection Costs when due, and the Payee will be entitled to exercise all of the Payee's rights and remedies upon the occurrence of any such Event of Default.

8. **Warrant.** As an inducement to the Payee to enter into this Note, within three (3) Business Days after each Event of Default under this Note or under any Related Document (each, a "**Warrant Trigger**"), the Parent Guarantor will execute and deliver to the Payee a warrant (the "**Warrant**"), in the form attached hereto as Schedule "A", granting the Payee the right to purchase at the Exercise Price (herein defined) a number of common shares of the Parent Guarantor equal to the quotient of (x) 200% of the unpaid amount of any delinquent amount or payment due and payable under this Note, together with all outstanding and unpaid accrued interest, late charges, fees and Collection Costs (without duplication in respect of any earlier amounts in respect of which any other Warrants have been previously issued) divided by (y) the Exercise Price. For purposes of this Section 8, "**Exercise Price**" means a twenty percent (20%) discount to the volume-weighted average closing price of the Parent Guarantor's common shares traded on the Nasdaq Stock Market ("**Nasdaq**"), over the thirty (30) trading days immediately preceding the date of the applicable Warrant Trigger. In the event that Nasdaq independently, without further inquiry from the Maker or its representatives, initiates an inquiry into the Warrant structure with respect to the maximum number of shares issuable under the Warrant(s) and such inquiry includes written documentation from Nasdaq indicating that it is reasonably likely that the Nasdaq inquiry will result in the common shares of Maker being delisted from Nasdaq, Maker and Payee will negotiate in good faith to amend the Related Documents to include a cap on the maximum number of shares issuable under the Warrant(s) to prevent such delisting. If the parties cannot agree upon modifications to the maximum number of shares issuable under the Warrant(s) that would avoid such delisting, Maker will have the right to pay-off the note without application

of the pre-payment premium set forth in Section 6(b). If the Parent Guarantor's common shares are not then traded on the Nasdaq, but are traded on the Toronto Stock Exchange (the "TSX") or on another nationally recognized U.S. or Canadian securities exchange, inter-dealer quotation system or over-the-counter market (an "Other Market") (any of the Nasdaq, the TSX or Other Market, a "Trading Market"), the Exercise Price shall mean a twenty percent (20%) discount to the volume-weighted average closing price of the Parent Guarantor's common shares traded on the TSX or Other Market, as elected by the Payee in its sole discretion, over the thirty (30) trading days immediately preceding the applicable Warrant Trigger. If the Parent Guarantor's common shares are not traded on a Trading Market, the Board of Directors of the Parent Guarantor shall determine the Exercise Price by applying a twenty percent (20%) discount to the fair market value of the Parent Guarantor's common shares as determined in its reasonable good faith judgment as reflected in the Parent Guarantor's financial statements prepared in accordance with IFRS consistently applied, provided that, if the Payee disagrees with such determination of the fair market value of the Parent Guarantor's common shares, the Board of Directors of the Parent Guarantor shall engage an independent valuator acceptable to the Payee, acting reasonably, to determine the fair market value of the Parent Guarantor's common shares. The Parent Guarantor covenants and agrees (i) that while this Note remains outstanding, it shall reserve and there shall remain unissued out of its authorized capital a sufficient number of common shares to permit the Payee to acquire all of the common shares of the Parent Guarantor as may be provided in the Warrant from time to time, (ii) that if requested by the Payee, the Parent Guarantor shall enter into a registration rights agreement with the Payee in form and substance acceptable to the Payee, acting reasonably and (iii) that it shall obtain at its sole cost and expense any and all required shareholder, regulatory and stock exchange approvals to give effect to the Warrant and the issuance of the common shares of the Parent Guarantor pursuant to the Warrant. In the event that shareholder, regulatory and/or stock exchange approvals are required in connection with the issuance of a Warrant and/or the issuance of common shares of the Parent Guarantor pursuant to such Warrant, the delivery by the Parent Guarantor of the applicable Warrant shall be delayed until three (3) Business Days following receipt by the Parent Guarantor of all necessary shareholder, regulatory and stock exchange approvals. Notwithstanding anything to the contrary in this Note, upon issuance, execution and delivery of the Warrant by the Parent Guarantor pursuant to this Section 8, the applicable Warrant Trigger shall be deemed cured without further action by the parties hereto.

9. Representations and Warranties. Each Loan Party makes the following representations and warranties to the Payee:

(a) Organization and Qualification to do Business. Each Loan Party and each of its Subsidiaries is (i) duly formed, validly existing, and in good standing, under the laws of its jurisdiction of incorporation, organization or formation, and (ii) qualified to do business in each jurisdiction where such qualification is necessary, except in the case of clause (ii), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. No Loan Party nor any Subsidiary operates any business under any other name. As used in this Note, "**Material Adverse Effect**" means (a) a material adverse change in, or a material adverse effect upon, the business, properties or financial condition of any Loan Party or any Subsidiary thereof taken as a whole, (b) a material impairment of the rights and remedies of the Payee under this

Note and any Related Document to which it is a party or a material impairment in the perfection, value or priority of the Payee's security interests in the Collateral, (c) an impairment of the ability of any Loan Party to perform its material obligations under this Note or any Related Document to which it is a party, or (d) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of the Note or any Related Document to which it is a party.

(b) Power and Authority. Each Loan Party and each Subsidiary party to a Related Document has the power and authority to execute, deliver and perform this Note and each Related Document to which it is or will be a party. The execution, delivery and performance of this Note and each Related Document to which it is or will be a party, have been duly authorized by all requisite action on the part of each Loan Party and each Subsidiary.

(c) Execution, Delivery and Enforceability. This Note and each Related Document to which it has been duly and validly executed and delivered by each Loan Party and each Subsidiary party thereof constitutes its legal, valid and binding obligation, enforceable in accordance with its terms.

(d) No Conflicts; No Consents. The execution, delivery and performance of this Note and the Related Documents to which it is a party by each Loan Party and each Subsidiary, and the its incurrence of the indebtedness and other Obligations evidenced by this Note and such Related Document, do not and will not (i) contravene any of the its Organizational Documents, (ii) contravene, be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both, as applicable) a default under, any indenture, agreement or other instrument binding upon it or any of its property, (iii) result in the creation or imposition of any security interest, lien or encumbrance upon any of its property for the benefit or security of any obligation or Person, excepting any security interests, liens or encumbrances created or imposed solely for the benefit and security of the Payee, (iv) contravene any provision of law or any order of any court or other agency of government, or (v) require any approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any governmental authority or any other Person, except for such approvals, consents, exemptions, authorizations, actions or notices that have been duly obtained, taken or made and in full force and effect, except with respect to any contravention, conflict, breach or default referenced in clause (ii) or (iv), and any failure under clause (v), which could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. As used in this Note, "**Organizational Documents**" means any articles or certificates of incorporation, organization, or formation, and the like, and any bylaws, operating agreements, partnership agreements, trust agreements, shareholder agreements or other governing documents, and including any amendments or restatements of any thereof.

(e) Subsidiaries. The Parent Guarantor does not have any Subsidiaries other than the Maker, each Subsidiary Guarantor, Greenbrook TMS Central Florida LLC and ABCTMS LLC. As used in this Note, (i) "**Person**" means any natural person, corporation, limited liability company, partnership, joint venture, association, joint-stock company, unincorporated organization, trust, governmental authority or other entity, including any receiver, debtor-in-possession, trustee, custodian, conservator, monitor or liquidator and (ii) "**Subsidiary**" means, with respect to any Person, any corporation, limited liability company,

partnership, statutory trust or other entity with respect to which such Person holds, directly or indirectly, a majority of the shares, membership interests, partnership interests, beneficial interests, or other equity interests having ordinary voting power for the election of the board of directors or other equivalent governing body thereof, or as to which such Person controls, directly or indirectly, the management thereof. Unless otherwise specified, a Subsidiary shall be deemed to be a Subsidiary of the Parent Guarantor.

(f) Compliance with Applicable Laws. Each Loan Party and its Subsidiaries are in compliance in all material respects with all Applicable Laws. As used in this Note, “**Applicable Laws**” means, as to any Person, all laws (whether federal, state, local or foreign) applicable to or binding upon (i) such Person, (ii) any property of such Person, or (iii) any business or activity of such Person.

(g) Solvency. Giving effect to the Maker’s incurrence of the principal amount of the Obligations, (i) the value of the Loan Parties’ assets is greater than the total amount of the Loan Parties’ liabilities, including contingent and unliquidated liabilities (computed, in the case of contingent and unliquidated liabilities, at the amount that, in light of all of the currently existing facts and circumstances can reasonably be expected to become actual or matured liabilities), (ii) each Loan Party is able to pay all of its liabilities as such liabilities mature, and (iii) each Loan Party does not have unreasonably small capital.

(h) Margin Stock. No Loan Party is engaged in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock, and no amount of the proceeds of the indebtedness evidenced by this Note has been used, and no amount thereof will be used, to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock. As used in this Note, “**Margin Stock**” means margin stock within the meanings of Regulations T, U and X, of the Board of Governors of the Federal Reserve System of the United States (and any successor thereto), as the same may be modified and supplemented and in effect from time to time.

(i) Investment Company Act. Neither any Loan Party nor any Subsidiary is an “investment company” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act of 1940, as amended.

10. Covenants. Each Loan Party further covenants and agrees, for the benefit and security of the Payee, as follows:

(a) Existence. Each Loan Party will, and will cause its Subsidiaries to, do all things necessary to preserve, renew and keep in full force and effect their legal existence in the jurisdictions where they are incorporated, organized or formed. Each Loan Party will, and will cause its Subsidiaries to, do all things necessary to maintain their qualification to do business in each jurisdiction where such qualification is necessary, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect. Each Loan Party will, and will cause its Subsidiaries to, do all things necessary to preserve, renew and keep in full force and effect all rights, permits, licenses, franchises, patents, trademarks, copyrights, privileges, authorizations, permissions, consents, easements, agreements or approvals of or issued by any

governmental authority or any other Person that may be required by any law or are otherwise necessary or advisable for the ownership or operation of the business, property or assets of such Loan Party and its Subsidiaries, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect. Each Loan Party will not, nor will it permit any of its Subsidiaries to, change or amend its Organizational Documents, except for changes or amendments that are not adverse to the Payee under this Note or any Related Document.

(b) Maintenance of Property. Each Loan Party will, and will cause each of its Subsidiaries to, (a) maintain, preserve and protect all of its properties and equipment necessary in the operation of its business in good working order and condition (ordinary wear and tear excepted) and (b) make all necessary repairs thereto and renewals and replacements thereof, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) Maintenance of Insurance. Each Loan Party will, and will cause each of its Subsidiaries to, maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such Persons.

(d) Payment of Obligations. Each Loan Party will, and will cause each of its Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable, all of its obligations and liabilities, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with the Applicable Accounting Standard (herein defined) are being maintained by such Loan Party or such Subsidiary.

(e) Compliance with Law.

(i) Each Loan Party will, and will cause its Subsidiaries to, comply in all material respects with all Applicable Laws, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

(ii) Each Loan Party will not, nor will it permit its Subsidiaries to, directly or indirectly, or knowingly permit any Affiliate to (1) enter into any documents, instruments, agreements or contracts with any person listed on the OFAC Lists, (2) conduct any business or engage in any transaction or dealing with any Blocked Person, including without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (3) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 or any similar executive order or other Anti-Terrorism Law, or (4) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law. As used in this Note, (i) “**Anti-**

Terrorism Laws” means any laws, rules, regulations or orders relating to terrorism or money laundering, including without limitation Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC; (ii) **“Blocked Person”** is any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which the Payee is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224, or (e) a Person that is named a “specially designated national” or “blocked person” on the most current list published by OFAC or other similar list; and (iii) **“OFAC Lists”** are, collectively, the Specially Designated Nationals and Blocked Persons List maintained by U.S. Department of Treasury Office of Foreign Assets Control (**“OFAC”**) pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

(f) **Taxes.** Each Loan Party will, and will cause its Subsidiaries to, (i) file, or cause to be filed, when due, all material tax returns and reports which are required to be filed by them, (ii) pay and discharge promptly, on or before the due date, all taxes, assessments, charges, and other impositions imposed by any government or governmental authority on any of them or on any of their properties or assets, and (iii) pay when due all lawful claims which, if unpaid, would by law become a lien upon any of their properties or assets, except in each case, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with the Applicable Accounting Standard are being maintained by such Loan Party or such Subsidiary. Promptly upon the Payee’s request from time to time, the Maker will provide to the Payee receipts and other evidences of compliance with the provisions of this Section.

(g) **Books and Records.** Each Loan Party will, and will cause its Subsidiaries to, maintain its financial books and records in accordance with the Applicable Accounting Standard. The Payee will be permitted access to all financial books and records of each Loan Party and each of their respective Subsidiaries at any of such Loan Party’s locations, or at any location of any Subsidiary, during normal business hours and will be permitted to make and keep copies, at the Maker’s expense, of such records as the Payee may request, at the Maker’s cost and expense. As used in this Note, (i) **“Applicable Accounting Standard”** means (a) initially, IFRS and (b) at all times following written notice from the Borrower to the Payee that the Borrower has elected to replace IFRS with GAAP; (ii) **“GAAP”** means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, consistently applied and as in effect from time to time; and (iii) **“IFRS”** means the International Financial Reporting Standards as set out in the Chartered Professional Accountants of Canada Handbook—Accounting, as in effect from time to time.

(h) Financial Reports. Each Loan Party will deliver to the Payee or cause to be delivered to the Payee the following:

(i) commencing with the fiscal year ending December 31, 2022, as soon as available, and in any event (i) for the fiscal year ending December 31, 2022, on or before April 28, 2023, and (ii) within ninety (90) days after the end of each other fiscal year of the Parent Guarantor (or, if earlier, when required to be filed with the SEC), a consolidated statement of financial position of Parent Guarantor and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of net loss and comprehensive loss, changes in equity and cash flows for such fiscal year (or, following the conversion to the Applicable Accounting Standard set forth in clause (b) of such definition, a consolidated balance sheet of the Parent Guarantor and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal year), setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with the Applicable Accounting Standard, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing acceptable to the Payee, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall, except for the report and opinion delivered for the fiscal year ending December 31, 2022, not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit;

(ii) commencing with the fiscal quarter ended March 31, 2023, as soon as available, and in any event within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Parent Guarantor (or, if earlier, when required to be filed with the SEC), a consolidated statement of financial position of the Parent Guarantor and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of net loss and comprehensive loss, changes in equity and cash flows for such fiscal quarter and for the portion of the Parent Guarantor's fiscal year then ended (or, following the conversion to the Applicable Accounting Standard set forth in clause (b) of such definition, a consolidated balance sheet of the Parent Guarantor and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations, changes in shareholders' equity and cash flows for such fiscal quarter and for the portion of the Parent Guarantor's fiscal year then ended), setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Parent Guarantor as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Parent Guarantor and its Subsidiaries in accordance with the Applicable Accounting Standard, subject only to normal year-end audit adjustments and the absence of footnotes; and

(iii) within ten (10) days after the Payee's written request from time to time such other information concerning the Loan Parties and their Subsidiaries, or compliance with the terms of this Note or any Related Documents as the Payee may from time to time reasonably request.

As used in this Note, "**Responsible Officer**" means the chief executive officer, president, general counsel, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

(i) Other Information. Promptly after the furnishing thereof, copies of any material request or notice received by any Loan Party or any Subsidiary, or any statement or report furnished by any Loan Party or any Subsidiary to any holder of debt securities of any Loan Party or any Subsidiary, pursuant to the terms of any indenture, loan or credit or similar agreement and not otherwise required to be furnished pursuant hereto, including under that certain Credit Agreement dated as of July 14, 2022 (as amended, restated, amended and restated, supplemented, extended or otherwise modified, the "**Madryn Loan Agreement**") by and between Parent Guarantor, as borrower, the guarantors party thereto, the lenders party thereto and Madryn. The Loan Parties shall also provide notice of any proposed amendment, waiver or consent related to the Madryn Loan Agreement at least two (2) Business Days prior to the effectiveness thereof.

(j) Notice of Default. Each Loan Party will give the Payee written notice of any breach, default or Event of Default under this Note or under any Related Document, within five (5) Business Days after the occurrence thereof.

(k) Investments. Each Loan Party will not, nor will it permit any Subsidiary to, (i) purchase, acquire or otherwise invest in any equity interest in any Person, (ii) purchase, acquire or otherwise invest in any Indebtedness of any Person, (iii) make any loan to or for any Person, or (iv) provide any other financial or credit support to or for any Person, except to the extent permitted under Section 8.02 of the Madryn Loan Agreement as in effect on the date hereof.

(l) Acquisitions. Each Loan Party will not, nor will it permit any Subsidiary to, (i) acquire all or substantially all of assets of any Person, (ii) acquire any line of business of any Person, (iii) merge or consolidate with any Person, (iv) enter into any partnership or joint venture, or (v) form or acquire any Subsidiary, except to the extent permitted under Sections 8.02 and 8.04 of the Madryn Loan Agreement as in effect on the date hereof.

(m) **Indebtedness.** Each Loan Party will not, nor will it permit any Subsidiary to, incur, assume, or otherwise be or become liable for any Indebtedness, or permit any Indebtedness to be secured by a security interest, lien or other encumbrance on any Property of any Loan Party or of any Subsidiary, other than (i) any Indebtedness owed to the Payee, (ii) Indebtedness under the Madryn Loan Agreement in an aggregate outstanding principal amount not to exceed \$[***] (excluding any principal resulting from interest that is paid-in-kind in accordance with the terms of the Madryn Loan Agreement), (iii) guarantees permitted under Section 10(k) of this Note, (iv) other Indebtedness in aggregate outstanding amount not to exceed [***], and (v) any other Indebtedness, without duplication, permitted under Section 8.03 of the Madryn Loan Agreement as in effect on the date hereof. As used in this Note, “**Indebtedness**” means any of the following: (i) loans and other indebtedness for borrowed money, (ii) any interest bearing obligations, (iii) obligations under capital and financing leases, (iv) obligations to pay the deferred purchase price or acquisition price of property, assets or services (excepting trade credit in the ordinary course of business outstanding not more than 60 days), (v) reimbursement obligations and other obligations relating to letters of credit, bank guarantees and the like, (vi) obligations arising from cash management services or credit extended in connection therewith that are not incurred in the ordinary course of business consistent with past practice, (vii) obligations under swap agreements and other hedging agreements, (viii) any obligations to purchase, redeem, retire, defease or otherwise acquire any shares, membership interests, partnership interests, beneficial interests or other equity interests of any Person, and (ix) any indebtedness or other obligations secured by a security interest, lien or other encumbrance on the property of any Loan Party or any Subsidiary regardless of whether such Loan Party or such Subsidiary is liable or such indebtedness or other obligations.

(n) **Guarantees.** Each Loan Party will not, nor will it permit any Subsidiary to, guarantee the payment of any Indebtedness or any other obligations of any Person, other than (i) indorsements of bank checks for collection in the ordinary course of business, (ii) guarantees of Indebtedness owed to the Payee (iii) guarantees of obligations of any Loan Party or any Subsidiary under leases of real property and leases of intellectual property entered into with third parties that are not Affiliates of Maker in the ordinary course of business consistent with past practice, (iv) guarantees of the Indebtedness described in Section 10(m)(ii) of this Note, and (v) guarantees permitted under Section 8.03 of the Madryn Loan Agreement as in effect on the date hereof.

(o) **Liens.** Each Loan Party will not, nor will it permit any Subsidiary to, create or suffer to exist any security interest, lien or encumbrance on any of such Loan Party’s Property or such Subsidiary’s Property, other than (collectively, “**Permitted Liens**”): (i) zoning restrictions, easements, licenses, reservations, covenants, conditions or other restrictions on the use of real property or other minor irregularities in title (including leasehold title), so long as the same do not, in the aggregate, materially impair the present use, value or marketability of any real property, leases or leasehold interests to which they apply, (ii) security deposits required under leases of real property to which such Loan Party or such Subsidiary is the lessee, provided that such leases are entered into, and such security deposits are made, in the ordinary course of such Loan Party’s or such Subsidiary’s business, (iii) deposits securing obligations under workmen’s compensation, unemployment insurance, social security or public liability laws or similar legislation, (iv) security interests, liens or encumbrances in favor of the Payee (and in favor of no other Person), (v) liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits, (vi) liens in favor of MADRYN FUND ADMINISTRATION, LLC, a Delaware limited liability company (as

successor to MADRYN HEALTH PARTNERS II (CAYMAN MASTER), LP, an exempted limited partnership organized under the laws of the Cayman Islands), as administrative agent (in such capacity, “**Madryn**”), pursuant to the Madryn Loan Agreement and the “Loan Documents” (as defined in the Madryn Loan Agreement), and (vii) any other security interests, liens or incumbrances permitted under Section 8.01 of the Madryn Loan Agreement as in effect on the date hereof.

(p) Dispositions. Each Loan Party will not, nor will it permit any Subsidiary to, sell, assign, transfer, convey, exchange, convert, surrender, contribute, donate, gift, lease, license, abandon or otherwise dispose of any of such Loan Party’s or any such Subsidiary’s Property, other than (i) sales or other dispositions of equipment that is obsolete and no longer useful in the business of such Loan Party or such Subsidiary, (ii) sales of inventory in the ordinary course of business of such Loan Party or such Subsidiary, and (iii) sales or dispositions permitted under Section 8.05 of the Madryn Loan Agreement as in effect on the date hereof.

(q) Dividends and Distributions. Each Loan Party will not, nor will it permit any Subsidiary to, (i) pay any dividend, or make any other distribution, payment or advance, to any holder of, or otherwise in respect of, any shares, membership interests, partnership interests, beneficial interests, warrants or other equity interests in such Loan Party or such Subsidiary, (ii) redeem, repurchase or purchase any shares, membership interests, partnership interests, beneficial interests, warrants, or other equity interests in such Loan Party or such Subsidiary, or (iii) prepay, redeem, repurchase, purchase, or maintain any sinking fund or other fund for the payment of, any Indebtedness of such Loan Party or of such Subsidiary that is or may be convertible into any equity interest in such Loan Party or in such Subsidiary; provided that (i) Subsidiaries will be permitted to pay dividends to, and make distributions to, the Maker (or if the Subsidiary initially paying the dividend or making the distribution is not a direct Subsidiary, then to one or more Subsidiaries but only to the extent necessary for the purpose of effecting the concurrent payment of a dividend or distribution in the same amount from a direct Subsidiary), (ii) payments, dividends or distributions by the Maker to its direct or indirect equity holders in order to pay consolidated or combined federal, state or local income or franchise taxes attributable to the income of the Maker or any of its Subsidiaries, to the extent such taxes are not payable directly by the Maker or any of their Subsidiaries, which payments, dividends and distributions by the Maker (less any such taxes payable directly by the Maker or any of its Subsidiaries) will not be in excess of the applicable income or franchise tax liabilities that would have been payable by Maker and the Subsidiaries on a stand-alone basis, and (iii) other payments, dividends or distributions permitted under Section 8.06 of the Madryn Loan Agreement as in effect on the date hereof.

(r) Affiliate Transactions. Each Loan Party will not, nor will it permit any Subsidiary to, engage in any transaction, or enter into any agreement, with any Affiliate unless such transaction or agreement is engaged in or entered into on terms that are no less favorable to such Loan Party or such Subsidiary than those that would have been obtained in a comparable transaction by such Loan Party or such Subsidiary with a non-Affiliate, or unless permitted under Section 8.08 of the Madryn Loan Agreement as in effect on the date hereof. As used in this Note, “**Affiliate**” means, as to any specified Person, any other Person directly or indirectly controlling

or controlled by or under direct or indirect common control with such specified Person; and “control,” including, with correlative meanings, the terms “controlling,” “controlled by,” and “under common control with,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through ownership of voting securities, by agreement or otherwise.

(s) Accounting Changes; Fiscal Year; Legal Name; Jurisdiction of Formation and Form of Entity. Each Loan Party will not, nor will it permit any Subsidiary to, change its (i) accounting treatment or reporting, or tax reporting treatment, except as required by the Applicable Accounting Standard or any requirement of law or as contemplated in the definition of “Applicable Accounting Standard”, in each case as disclosed by the Maker to the Payee, (ii) fiscal year and (iii) name, jurisdiction of organization or form of organization, without providing five (5) Business Days’ prior written notice to the Payee.

(t) Change in Nature of Business; Change in Management.

(i) Each Loan Party will not, nor will it permit any Subsidiary to, make any material change in the nature or conduct of its business carried on at the date of this Note or enter into any line of business other than the line or lines of business it is engaged in on the date of this Note or any business substantially related or incidental thereto.

(ii) Each Loan Party will not terminate the employment of any Key Person unless written notice thereof is provided to the Payee within ten (10) days of such termination or employment. As used herein, “**Key Person**” means [***].

(u) Fundamental Changes. Each Loan Party will not, nor will it permit any Subsidiary to, (i) adopt or approve a plan of division, file a certificate of division, or effect a division, (ii) sell or otherwise dispose of all or substantially all of its assets in one transaction or in a series of related transactions, (iii) cease doing business, or (iv) liquidate, dissolve, wind up, terminate or cease to exist.

(v) Security Documents.

To secure the full and complete payment and performance of this Note and the Obligations when due (the “**Note Obligations**”), and all other obligations of the Maker, the other Loan Parties or any other Person to the Payee under this Note or under any Related Document (the “**Related Obligations**,” and the Related Obligations together with the Note Obligations, the “**Secured Obligations**”), the Loan Parties have entered into, as applicable, the following agreements, each dated as of the date hereof in favor of the Payee, (i) U.S. Security Agreement, (ii) the U.S. Pledge Agreement, (iii) the Canadian Security Agreement, (iv) the Canadian Pledge Agreement and (v) the Parent Pledge Agreement (the foregoing clauses (i) through (v), together with any other document or instrument entered into from time to time to secure the Secured Obligations, the “**Security Documents**”). Each Loan Party represents and warrants to the Payee that the security interests granted to the Payee in the Security Documents are now and will at all times be valid and enforceable first priority security interests, subject to Permitted Liens. The Payee will be

entitled to file and maintain one or more Uniform Commercial Code (“UCC”) financing statements (or, to the extent applicable Personal Property Security Act (Ontario) (“PPSA”) financing statements) identifying each Loan Party as the debtor and the Payee as the secured party for purposes of perfecting and giving notice of the security interests granted to the Payee under the Security Documents. The Payee will be entitled to describe the collateral on such UCC or PPSA financing statements as “all assets of the Debtor,” or as “all personal property of the Debtor,” or any combination thereof. Promptly upon, and in any event within five (5) days after, the Payee’s written request, each Loan Party will provide the Payee with all information that the Payee reasonably requests for purposes of preparing and filing such UCC or PPSA financing statements. With respect to security interests granted to the Payee under the Security Documents in any personal property or fixtures as to which another method of perfection (for example, perfection by control or by a filing other than a UCC or PPSA financing statement filing) may be required, or may be deemed necessary or advisable by the Payee (and the Payee will have notified the Maker thereof) in its reasonable discretion, the Maker will promptly cause such security interests to be perfected by such other method of perfection, and to the extent that it is necessary to obtain an account control agreement, written consent, written acknowledgment or other documentation from a deposit account bank, a securities intermediary, a letter of credit issuer, a bailee, or other Person for such purposes, the Maker will promptly obtain such agreement, consent, acknowledgment or other documentation from such deposit account bank, securities intermediary, letter of credit issuer, bailee or other Person, in form and substance reasonably satisfactory to the Payee. Promptly upon the Payee’s written request, the Maker will take such actions, and cause the Maker’s other creditors and counterparties to take such actions, as may be necessary or advisable, as determined by the Payee in the Payee’s reasonable discretion, to confirm that the security interests granted to the Payee under the Security Documents are perfected first priority security interests and are not subject to any security interest, lien or encumbrance of any other Person, other than Permitted Liens. All costs and expenses (including the Payee’s reasonable attorneys’ fees and other legal expenses, and all costs, expenses, and taxes actually incurred relating to filings and the like) of perfecting, confirming and maintaining the first priority of the security interests granted to the Payee under this Note, subject to Permitted Liens, will be paid or reimbursed by the Maker promptly upon, and in any event within ten (10) days after, the Payee’s written requests for such payment or reimbursement from time to time. The Payee will have all of the rights and remedies of a secured party under the UCC or PPSA as in effect in the Governing Jurisdiction and other Applicable Law. Promptly after the Payee’s written requests from time to time reasonably requested, the Maker will provide the Payee with such information as the Payee may request regarding any or all of the Collateral. This Note constitutes a security agreement made by the Maker for the benefit and security of the Payee.

(w) Use of Proceeds. The Maker will use the proceeds of this Note to repay the Commercial Agreement Outstanding A/R Balance, to pay Payee’s costs reasonably incurred to prepare this Note and the Related Documents, and/or for working capital purposes and will not use such proceeds: (i) in violation of any Applicable Law, including FCPA or OFAC regulations, (ii) for payment of any affiliated debt, dividends or distributions, (iii) for payment of any executive compensation outside of the ordinary course of business consistent with past practice and compensation levels as previously disclosed to the Payee or (iv) for payments to any Person that is, or has a controlling interest in, a competitor of the Payee, its Affiliates or any of their respective business.

(x) Replacement Notes. If this Note is lost or destroyed, the Maker and the other Loan Parties will, within ten (10) days after the Payee's written request, execute and deliver to the Payee a replacement promissory note identical to this Note. No replacement of this Note will result in a novation of the Maker's or any other Loan Party's obligations under this Note and the guarantee herein and Security Documents shall continue in full force and effect and will apply to any such replacement promissory note.

(y) Post-Closing Requirements.

(i) [***].

(ii) [***].

11. Guaranty.

(a) The Guaranty. Each of the Guarantors hereby jointly and severally guarantees to the Payee as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Secured Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Secured Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the Guarantors will, jointly and severally, 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 Secured Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal. Notwithstanding any provision to the contrary contained herein or in any Related Document, the obligations of each Guarantor under this Note and the Related Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under Debtor Relief Laws, Canadian Debtor Relief Laws or any comparable provisions of any applicable federal, state or provincial law.

(b) Obligations Unconditional. The obligations of the Guarantors under Section 11(a) are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Note or any Related Document, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Secured Obligations, and, to the fullest extent permitted by applicable law, irrespective of any law or regulation or other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 11(b) that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against the Maker or any other Guarantor for amounts paid under this Section 11 until such time as the Secured Obligations (other than contingent indemnification obligations for which no claim has been asserted) have been paid in full. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Secured Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of any of the Note or any Related Document, or any other agreement or instrument referred to in the Note or Related Documents shall be done or omitted;

(iii) the maturity of any of the Secured Obligations shall be accelerated, or any of the Secured Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Note or Related Documents, or any other agreement or instrument referred to in the Note or Related Documents shall be waived or any other guarantee of any of the Secured Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(iv) any lien granted to, or in favor of, the Payee as security for any of the Secured Obligations shall fail to attach or be perfected; or

(v) any of the Secured Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Payee exhaust any right, power or remedy or proceed against any Person under any of the Note or Related Documents, or any other agreement or instrument referred to in the Note or Related Documents, or against any other Person under any other guarantee of, or security for, any of the Secured Obligations.

(c) Reinstatement. The obligations of the Guarantors under this Section 11 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Secured Obligations is rescinded or must be otherwise restored by the Payee, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Payee on demand for all reasonable costs and expenses (including, without limitation, the fees, charges and disbursements of counsel) incurred by the Payee in connection with such rescission or restoration, including any such 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.

(d) Certain Additional Waivers. Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Secured Obligations, except through the exercise of rights of subrogation pursuant to Section 11(b) and through the exercise of rights of contribution pursuant to Section 11(f).

(e) Remedies. The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Payee, on the other hand, the Secured Obligations may be declared to be forthwith due and payable as provided in Section 12 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 12) for purposes of Section 11(a) notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Secured Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Secured Obligations being deemed to have become automatically due and payable), the Secured Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 11(a). The Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Security Documents and that the Payee may exercise their remedies thereunder in accordance with the terms thereof.

(f) Rights of Contribution. The Guarantors agree among themselves that, in connection with payments made hereunder, each Guarantor shall have contribution rights against the other Guarantors as permitted under applicable law. Such contribution rights shall be subordinate and subject in right of payment to the obligations of such Guarantors under this Note and the Related Documents and no Guarantor shall exercise such rights of contribution until all Secured Obligations (other than contingent indemnification obligations for which no claim has been asserted) have been paid in full.

(g) Guarantee of Payment; Continuing Guarantee. The guarantee in this Section 11 is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Secured Obligations whenever arising.

12. Default; Acceleration. The occurrence of any of the following events or circumstances will be an “**Event of Default**”:

(a) the failure of the Maker to make any payment of principal or interest on this Note within three (3) Business Days after the same shall become due;

(b) the failure of the Maker to pay any other amounts, including any late charge, Collection Costs or other amounts owed to the Payee under this Note, within five (5) Business Days after the Payee gives the Maker a written request for such payment;

(c) the failure of the Maker to timely pay any amounts, including any late charge, owed to the Payee under the Commercial Agreement;

(d) the failure of any Loan Party or any Subsidiary to perform its obligations under Section 8 or Section 10 of this Note;

(e) the failure of any Loan Party or any Subsidiary to pay or perform its obligations under any term, provision, covenant or agreement in this Note or Related Documents, which failure is not within the scope of preceding clauses (a), (b), (c) or (d), which failure shall continue unremedied for a period of thirty (30) days;

(f) if any representation or warranty made by any Loan Party or any Subsidiary in this Note or in any Related Document is breached in any material respect or is false or misleading, to the extent that such representation or warranty being incorrect or misleading had, or could reasonably be expected to have, a Material Adverse Effect (without duplication of any qualification by materiality or reference to Material Adverse Effect or material adverse effect);

(g) if (i) any default or event of default occurs under the Madryn Loan Agreement or (ii) any Loan Party or any Subsidiary breaches or defaults in any payment of any Indebtedness (other than the Indebtedness evidenced by this Note) owed by it to any Person, or will breach, or default under, any other terms, representations, warranties, covenants, conditions, or other provisions applicable to such Indebtedness, if (x) the amount of such Indebtedness exceeds One Million Dollars (\$1,000,000) or (y) the occurrence of any such breach or default would accelerate such Indebtedness or would entitle the holder of such indebtedness to accelerate such Indebtedness or exercise any other remedies with respect thereto;

(h) if a judgment, order or award for payment of money in excess of One Million Dollars (\$1,000,000) will be entered against any Loan Party or any Subsidiary, in favor of any Person, and such judgment or order will continue unsatisfied and unstayed (i) for a period of thirty (30) days after the entry thereof, or (ii) if earlier, on the date on which any lien may attach in respect of such judgment, order or award;

(i) the commencement of any action (including any self-help action) or proceeding, judicial or otherwise, by any Person for the purpose of enforcing or protecting such Person's security interest in or lien upon any Property of any Loan Party or any Subsidiary, or the seizure, repossession, or other taking of possession, of any property of any Loan Party or any Subsidiary, by any Person other than the Payee by any action or means, including condemnation, forfeiture, foreclosure (or deed in lieu of foreclosure), seizure, levy, distraint, replevin or self-help;

(j) the occurrence, directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, of any Change of Control of the Parent Guarantor or any event that causes the Parent Guarantor to not own one hundred percent (100%) of the Maker. As used in this Note, "**Change of Control**" means:

(i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than the Specified Permitted Holders, is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that

a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”), directly or indirectly, of equity interests representing thirty percent (30%) or more of the aggregate ordinary voting power in the election of the Board of Directors of the Parent Guarantor represented by the issued and outstanding equity interests of the Parent Guarantor on a fully diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(ii) during any period of twelve (12) consecutive months, a majority of the members of the Board of Directors of the Parent Guarantor cease to be composed of individuals (A) who were members of that Board of Directors on the first day of such period, (B) whose election or nomination to that Board of Directors was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of Board of Director, or (C) whose election or nomination to Board of Directors was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that Board of Directors; or

(iii) any “Change of Control” (or any comparable term) shall occur under any document or agreement evidencing any Indebtedness with an aggregate principal amount in excess of \$1,000,000.

As used in this Note, “**Specified Permitted Holders**” means (a) Benjamin Klein, (b) Batya Klein, (c) a corporation in respect of which the individuals identified in the foregoing clauses (a) and (b) hold direct or indirect beneficial ownership of all shares of equity interests of such corporation, (d) a partnership in respect of which the individuals identified in the foregoing clauses (a) and (b) hold direct or indirect beneficial ownership of all partnership shares of or interests in such partnership, (e) a limited liability company in respect of which the individuals identified in the foregoing clauses (a) and (b) hold direct or indirect beneficial ownership of all memberships in or interests of such company and (f) any trust established by an individual identified in the foregoing clauses (a) or (b) to the extent that such individual is the sole trustee and beneficiary.

(k) the occurrence of any event or circumstance that has caused or would reasonably be expected to cause a Material Adverse Event;

(l) if any Loan Party or any Subsidiary will allege any invalidity or unenforceability of (i) this Note, (ii) any of the Obligations, (iii) any Related Document, or (iv) any security interest, lien or encumbrance created in favor of the Payee under any Related Document;

(m) any provision of the Intercreditor Agreement will for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Person shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations, for any reason shall not have the priority contemplated by this Note or the Intercreditor Agreement;

(n) if any Loan Party or any Subsidiary commences a voluntary case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or similar law now or hereafter in effect (including any proceeding under applicable corporate law seeking a compromise or arrangement of, or a stay of proceedings to enforce, some or all of the debt of such Loan Party or Subsidiary) or seeking the appointment of a trustee, receiver, liquidator, custodian, or similar official of it or any substantial part of its assets, or will consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or will make a general assignment for the benefit of creditors, or will fail generally to pay its debts as they become due, or will take any action to authorize any of the foregoing (the “**Voluntary Events**”); or

(o) if an involuntary case or other proceeding will be commenced against any Loan Party or any Subsidiary seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or similar law now or hereafter in effect (including any proceeding under applicable corporate law seeking a compromise or arrangement of, or a stay of proceedings to enforce, some or all of the debt of such Loan Party or Subsidiary) or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets, and such involuntary case or other proceeding will remain undismissed and unstayed for a period of sixty (60) days, or an order for relief will be entered against any Loan Party or any Subsidiary under the federal bankruptcy laws and other Debtor Relief Laws and Canadian Debtor Relief Laws (as defined below) as now or hereafter in effect (the “**Involuntary Events**,” and together with the Voluntary Events, the “**Bankruptcy Events of Default**”). For the purposes hereof, “**Canadian Debtor Relief Laws**” means the Bankruptcy and Insolvency Act (Canada), Companies’ Creditors Arrangement Act (Canada), Winding-Up and Restructuring Act (Canada) and other applicable federal and provincial law (including corporate law) regarding bankruptcy, insolvency, assignment for the benefit of creditors, receivership, conservatorship, moratorium, rearrangement, reorganization, liquidation or similar debtor relief.

Upon the occurrence of an Event of Default and subject at all times to the Intercreditor Agreement, (i) the unpaid principal balance of this Note together with all accrued and unpaid interest thereon and all late charges, fees, Collection Costs and other sums evidenced by this Note will, at the option of the Payee, and in the Payee’s discretion, be accelerated and become immediately due and payable, (ii) the Payee may exercise all rights and remedies available to it under this Note, the Related Documents and Applicable Law, (iii) the Payee may exercise, without any other notice to or demand upon any Loan Party or any Subsidiary, in addition to the other available rights and remedies, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected Collateral) and also may (A) require any Loan Party or any Subsidiary to assemble the Collateral or any part thereof, as directed by the Payee and make it available to the Payee at a place and time to be designated by

the Payee; (B) without notice except as specified below, sell, resell, assign and deliver or grant a license to use or otherwise dispose of the Collateral or any part thereof, in one or more parcels at public or private sale, at any of the Payee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Payee may deem commercially reasonable; (C) occupy any premises owned or leased by any Loan Party or any Subsidiary where the Collateral or any part thereof is assembled or located for a reasonable period in order to effectuate its rights and remedies hereunder or under law, without obligation to any Loan Party or any Subsidiary in respect of such occupation; and (D) exercise any and all rights and remedies of any Loan Party or any Subsidiary under or in connection with the Collateral, or otherwise in respect of the Pledged Collateral (as defined in the Security Documents), including without limitation, any and all rights to demand or otherwise require payment of any amount under, or performance of any provision of any Collateral, withdraw, or cause or direct the withdrawal, of all funds with respect to any accounts, exercise all other rights and remedies with respect to the Collateral, and exercise any and all voting, consensual and other rights with respect to any Collateral.

Notwithstanding the foregoing, upon any Bankruptcy Event of Default, and without notice to or demand upon any Loan Party or any action by the Payee, the unpaid principal balance of this Note together with all accrued and unpaid interest thereon, and all late charges, fees, Collection Costs and other sums evidenced by this Note, will be accelerated automatically and become immediately due and payable. The Payee's rights and remedies with respect to the acceleration of this Note upon the occurrence of an Event of Default are in addition to the Payee's rights and remedies under common and statutory law and under any Related Documents.

Each Loan Party hereby appoints the Payee its attorney-in-fact, with full power and authority in the place and stead of such Loan Party and in the name of such Loan Party, or otherwise, from time to time during the existence of an Event of Default in the Payee's discretion to take any action and to execute any instrument consistent with the terms of this Note and the Related Documents which the Payee may deem necessary or advisable to accomplish the purposes hereof (but the Payee shall not be obligated to and shall have no liability to such Loan Party or any third party for failure to so do or take action). The foregoing grant of authority is a power of attorney coupled with an interest and such appointment shall be irrevocable for the term hereof. Each Loan Party hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof.

13. Board Observation Right. During the term of this Note, Payee will be entitled to (i) receive notice of any regular or special meeting of the member or board of directors (or equivalent governing body) (the "**Board**") of the Maker (or of the adoption or proposed adoption of any resolution of the Board by written consent) at the time such notice (or such proposed written consent) is provided to the members of the Board (the "**Directors**"), (ii) receive copies of any materials delivered to the sole member of the Maker or the Directors concurrently with their delivery to the sole member or the Directors and (iii) attend and participate (but not vote) in all meetings of the Board and any committees thereof.

14. Notices. Any notice, request or demand required or permitted by or in connection with this Note will be in writing and will be made by facsimile, or by electronic transmission (“e-mail”), or by hand delivery, or by a nationally recognized overnight delivery service, or by certified mail, return receipt requested, postage prepaid, addressed to the Payee or to a Loan Party at the appropriate address set forth below or to such other address as may be hereafter specified by written notice by the Payee or such Loan Party. Notice, request or demand will be considered given as of the earlier of the date of actual receipt, or the date of the facsimile transmission without error, if receipt of the facsimile has been confirmed by telephone, or the date the e-mail is delivered, or the date of hand delivery, or one (1) Business Day after delivery to a nationally recognized overnight delivery service, or three (3) Business Days after the date of mailing by certified mail, return receipt requested, postage prepaid, independent of the date of actual delivery or whether delivery is ever in fact made, as the case may be, provided the giver of the notice, request or demand can establish that the notice, request or demand was given as provided herein. Notwithstanding the aforesaid procedures, any notice, request or demand upon a Loan Party, in fact received by a Loan Party, will be sufficient notice, request or demand.

If to the Payee: [***]

If to Maker / Loan Party: [***]

15. Certain Waivers. Each Loan Party waives demand, presentment, protest, notice of dishonor, notice of protest, notice of nonpayment, notice of acceleration, and diligence. Presentment is not necessary to enforce the obligation of indorsers of this Note. Notice of dishonor is not necessary to enforce the obligation of any party to pay this Note. Each Loan Party agrees that if the Payee or any other Person entitled to enforce this Note agrees at any time, with or without consideration, to an extension of the due date of the obligation of any party to pay this Note, such extension (whether of the maturity of this Note or any payment under this Note) will not discharge any obligation of such Loan Party. Each Loan Party waives valuation and appraisal and all applicable exemption rights, whether under any state constitution, homestead laws or otherwise. Each Loan Party waives all defenses based on suretyship or impairment of collateral.

16. Preservation of Payee Rights. No failure on the part of the Payee to exercise any right or remedy hereunder, whether before or after the happening of an Event of Default, will constitute a waiver thereof, and no waiver of any past Event of Default will constitute waiver of any future default or of any other Event of Default. No failure to accelerate the Obligations evidenced hereby by reason of any Event of Default hereunder, or acceptance of a past due payment, or indulgence granted from time to time, will be construed to be a waiver of the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or will be deemed to be a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or any other right, or be construed so as to preclude the exercise of any right that the Payee may have, whether by the laws of the Governing Jurisdiction, by agreement, or otherwise; and each Loan Party hereby expressly waives the benefit of any statute or rule of law or equity that would produce a result contrary to or in conflict with the foregoing.

17. Payee's Setoff Rights. To the extent permitted by Applicable Law, the Payee will have the right (referred to herein as the "**Setoff Rights**") to set off against any principal, accrued interest or other amounts owing to the Payee under this Note, or owing to the Payee under any Related Document, any or all of any Loan Party's deposits, moneys, securities and other property held by the Payee, or in the possession of the Payee, or in transit to the Payee, whether held in a deposit account or other account, or held for safekeeping, or otherwise. The Payee may exercise the Setoff Rights upon the occurrence and during the continuance of any Event of Default. The Payee may exercise the Setoff Rights without demand or notice to a Loan Party. The Setoff Rights are in addition to any liens, setoff rights or other rights and remedies that the Payee may have by law or pursuant to any other agreement, and are in addition to the Payee's rights and remedies with respect to any collateral or other property in which the Payee may have a security interest or other lien.

18. Commercial Obligations. Each Loan Party acknowledges and agrees that all of the Obligations under this Note are commercial obligations. Each Loan Party represents and warrants to the Payee that no amount of the proceeds of the indebtedness evidenced by this Note has been used, and no amount thereof will be used, for consumer, personal, family or household purposes.

19. Maximum Rate of Interest. Notwithstanding anything herein to the contrary, the obligations of the Maker under this Note will be subject to the limitation that payments of interest (including any amounts properly characterized as interest under the law applicable to the indebtedness evidenced hereby) will not be required to the extent that receipt of such payments of interest by the Payee would be contrary to provisions of law applicable to the indebtedness evidenced hereby that limit the maximum lawful rate of interest that may be charged or collected by the Payee on this Note or on the indebtedness evidenced hereby. Without limiting the generality of the foregoing, all calculations of the rate of interest contracted for, charged or received under this Note which are made for the purposes of determining whether such rate of interest exceeds the maximum lawful rate of interest will be made, to the extent permitted by Applicable Law, by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of this Note all interest at any time contracted for, charged or received in connection with the indebtedness evidenced by this Note, and then, if any portion of the interest paid to the Payee exceeds the maximum lawful amount (any such portion, an "**excess amount**"), such excess amount will be automatically credited against and in reduction of the principal balance of this Note, and if any of said excess amount remains after the principal balance of this Note has been paid in full, then the Payee will return such remaining excess amount to the Maker, it being the intent of the parties hereto that under no circumstances will the Maker be required to pay any interest in excess of the highest rate of interest permissible under Applicable Law. This Section applies only if there are such provisions of law applicable to this Note or the indebtedness evidenced hereby that limit the maximum lawful rate of interest that may be charged or collected by the Payee on this Note or the indebtedness evidenced hereby.

20. Amendments and Waivers. This Note may not be modified, amended, restated, changed or terminated orally, but only by an agreement in writing executed by the Loan Parties and the Payee. No waiver of any term, covenant, representation, warranty or other provision of this Note, and no waiver of any Event of Default or any breach or default that with the giving of notice or the passage of time could become an Event of Default, will be effective unless such waiver is given in writing and executed by the Payee. If any such waiver is given by the Payee, such waiver will be effective only with respect to the specific circumstances set forth in such writing. No security interest or lien will be terminated or released, and no Collateral will be released from any security interest or lien, except by an agreement in writing executed by the Payee. The Payee will not be obligated to agree to any modification, amendment, restatement, change, consent, termination, waiver, or release, and any such agreement may be conditioned, delayed, or withheld, in the Payee's absolute discretion.

21. Severability. In case any provision or any part of any provision contained in this Note will for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision or remaining part of the affected provision of this Note, but this Note will be construed as if such invalid, illegal, or unenforceable provision or part thereof had never been contained herein but only to the extent such provision or part thereof is invalid, illegal, or unenforceable.

22. Successors and Assigns. This Note will be binding upon each Loan Party and each Loan Party's successors and assigns, and will inure to the benefit of the Payee and the Payee's successors and assigns. This Note and the Related Documents may be assigned in whole or in part by the Payee. No Loan Party may assign any of its rights or obligations under this Note or any Related Document without the prior written consent of the Payee, and any purported assignment by a Loan Party without the Payee's prior written consent will be null and void.

23. Captions. Section headings and captions in this Note are for convenience only and shall not affect the construction or interpretation of this Note. Unless otherwise expressly stated in this Note, references in this Note to Sections will be read as Sections of this Note.

24. Time of the Essence. Time is of the essence of this Note.

25. Further Assurances. Each Loan Party will and will cause its Subsidiaries to, execute and deliver to the Payee such further assurances of this Note and the Warrant and take such other further actions as the Payee may from time to time request to further the intent and purposes of this Note, the Warrant and the Related Documents and to maintain the rights and remedies intended to be created in favor the Payee under this Note, the Warrant and the Related Documents.

26. Holder in Due Course Status. If the Payee transfers or assigns this Note to another holder who takes this Note for value and without actual knowledge of a defense, set-off or claim of the Maker against any prior holder of this Note, such transferee or assignee will not be subject to any defenses, set-offs, or claims that the Maker may have against any holder of this Note prior to such transfer or assignment, and such transferee or assignee will have all of the rights of a holder in due course against the Maker even if, absent this provision, such transferee or assignee would not qualify as, or would not be, a holder in due course under Applicable Law. This Section is intended to apply, and is intended to give such transferee or assignee the rights of a holder in due course against the Maker, regardless of whether this Note is or is not a negotiable instrument.

27. Counterparts. This Note may be executed in counterparts (and by different parties hereto in different counterparts), each of which will constitute an original, but all of which when taken together will constitute a single promissory note. Delivery of an executed counterpart of a signature page of this Note by facsimile or in electronic (for example, “.pdf” or “.tif”) format by email or other electronic transmission will be effective as delivery of a manually executed counterpart of this Note. Signature pages may be detached from separate counterparts and attached to a single counterpart so that all signature pages are attached to the same document. In making proof of this Note, it will not be necessary to produce more than one counterpart of this executed Note.

28. Representation by Counsel. Each Loan Party acknowledges that such Loan Party is and has been represented by counsel of such Loan Party’s choice in connection with the negotiation, preparation, review, authorization, execution and delivery of this Note and any other instruments, agreements or matters relating to this Note.

29. Choice of Law, Venue, and Jury Trial Waiver.

(a) Governing Law. This Note and the rights and obligations of each Loan Party and the Payee hereunder will, in all respects, be governed by, and construed in accordance with, the laws of the State of New York (the “**Governing Jurisdiction**”), including all matters of construction, validity and performance.

(b) JURISDICTION; VENUE; SERVICE.

(i) EACH LOAN PARTY HEREBY IRREVOCABLY CONSENTS TO THE NON-EXCLUSIVE PERSONAL JURISDICTION OF THE STATE COURTS OF THE GOVERNING JURISDICTION AND, IF A BASIS FOR FEDERAL JURISDICTION EXISTS, THE NON-EXCLUSIVE PERSONAL JURISDICTION OF ANY UNITED STATES DISTRICT COURT FOR THE GOVERNING JURISDICTION.

(ii) EACH LOAN PARTY AGREES THAT VENUE WILL BE PROPER IN ANY COURT OF THE GOVERNING JURISDICTION SELECTED BY THE PAYEE OR, IF A BASIS FOR FEDERAL JURISDICTION EXISTS, IN ANY UNITED STATES DISTRICT COURT IN THE GOVERNING JURISDICTION. EACH LOAN PARTY WAIVES ANY RIGHT TO OBJECT TO THE MAINTENANCE OF ANY SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, IN ANY OF THE STATE OR FEDERAL COURTS OF THE GOVERNING JURISDICTION ON THE BASIS OF IMPROPER VENUE OR INCONVENIENCE OF FORUM.

(iii) ANY SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR TORT OR OTHERWISE, BROUGHT BY A LOAN PARTY AGAINST THE PAYEE THAT IS BASED, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, ON THIS NOTE OR ANY MATTERS RELATING TO THIS NOTE OR ANY RELATED DOCUMENT OR ANY OBLIGATIONS, WILL BE BROUGHT IN A COURT ONLY IN THE GOVERNING JURISDICTION. EACH LOAN PARTY WILL NOT FILE ANY COUNTERCLAIM AGAINST THE PAYEE IN ANY SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING BROUGHT BY THE PAYEE AGAINST A LOAN PARTY IN A JURISDICTION OUTSIDE OF THE GOVERNING JURISDICTION UNLESS UNDER THE RULES OF THE COURT IN WHICH THE PAYEE BROUGHT SUCH SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING THE COUNTERCLAIM IS MANDATORY, AND NOT PERMISSIVE, AND WOULD BE CONSIDERED WAIVED UNLESS FILED AS A COUNTERCLAIM IN THE SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING INSTITUTED BY THE PAYEE AGAINST A LOAN PARTY. EACH LOAN PARTY AGREES THAT ANY FORUM OUTSIDE THE GOVERNING JURISDICTION IS AN INCONVENIENT FORUM AND THAT ANY SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING BROUGHT BY A LOAN PARTY AGAINST THE PAYEE IN ANY COURT OUTSIDE THE GOVERNING JURISDICTION SHOULD BE DISMISSED OR TRANSFERRED TO A COURT LOCATED IN THE GOVERNING JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT BRING OR COMMENCE ANY SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE PAYEE IN ANY WAY RELATING TO THIS NOTE OR ANY RELATED DOCUMENT, OR ANY OBLIGATIONS HEREUNDER OR THEREUNDER, OR ANY TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY, AND THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH LOAN PARTY AND THE PAYEE AGREES THAT A FINAL JUDGMENT IN ANY SUCH SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING WILL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(iv) EACH LOAN PARTY AND THE PAYEE IRREVOCABLY CONSENT TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH SUIT, CLAIM, ACTION, LITIGATION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL POSTAGE PREPAID, TO IT AT THE ADDRESS SET FORTH FOR NOTICES IN THIS NOTE (OR AT SUCH OTHER ADDRESS FOR NOTICE AS A LOAN PARTY OR THE PAYEE WILL HAVE SPECIFIED BY WRITTEN NOTICE TO THE OTHER), SUCH SERVICE TO BECOME EFFECTIVE THIRTY (30) DAYS AFTER THE DATE OF MAILING.

(v) NOTHING HEREIN WILL AFFECT THE RIGHT OF THE PAYEE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR TO OTHERWISE PROCEED AGAINST A LOAN PARTY OR ANY OTHER PERSON IN THE GOVERNING JURISDICTION OR IN ANY OTHER JURISDICTION.

(c) WAIVER OF JURY TRIAL. EACH LOAN PARTY AND THE PAYEE MUTUALLY WAIVE ALL RIGHT TO TRIAL BY JURY OF ALL CLAIMS OF ANY KIND ARISING OUT OF OR BASED UPON THIS NOTE, ANY RELATED DOCUMENT, ANY OBLIGATIONS OR ANY CONTEMPLATED TRANSACTION. EACH LOAN PARTY AND THE PAYEE ACKNOWLEDGE THAT THIS IS A WAIVER OF A LEGAL RIGHT AND THAT SUCH LOAN PARTY AND THE PAYEE EACH MAKE THIS WAIVER VOLUNTARILY AND KNOWINGLY AFTER CONSULTATION WITH COUNSEL OF ITS CHOICE. EACH LOAN PARTY AND THE PAYEE AGREE THAT ALL SUCH CLAIMS WILL BE TRIED BEFORE A JUDGE OF A COURT HAVING JURISDICTION, WITHOUT A JURY.

30. Intercreditor Agreement. Notwithstanding anything herein to the contrary, the lien and security interest granted pursuant to the Security Documents and the exercise of any right or remedy by the Payee hereunder are subject to the provisions of the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and this Note, the terms of the Intercreditor Agreement shall govern

[The signature page follows. The remainder of this page is blank.]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parent Guarantor, Maker and Subsidiary Guarantor each execute this Note as of the date first written above.

MAKER:

TMS NEUROHEALTH CENTERS INC.,
a Delaware corporation

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

PARENT GUARANTOR:

GREENBROOK TMS INC.,
an Ontario corporation

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

SUBSIDIARY GUARANTORS:

TMS NEUROHEALTH CENTERS SERVICES, LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS ROCKVILLE, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS KENSINGTON, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS FREDERICK, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS GREENBELT, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS HUNT VALLEY LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS GLEN BURNIE, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS COLUMBIA, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS ANNAPOLIS, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS OWINGS MILLS,
LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS BEL AIR LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS EASTON LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS SOUTHERN MARYLAND LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS EASTERN SHORE, LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS TOWSON LLC,
a Maryland limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS WILMINGTON LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS NEWARK LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS TYSONS CORNER,
LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS RESTON, LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS ASHBURN, LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS WOODBRIDGE, LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS FAIRFAX LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS ARLINGTON LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS RICHMOND, LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS CHARLOTTESVILLE,
LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS NEUROHEALTH CENTERS VIRGINIA BEACH,
LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS NEWPORT NEWS LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS MIDLOTHIAN LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS FREDERICKSBURG LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS SUFFOLK LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS ROANOKE LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS LYNCHBURG LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CHRISTIANSBURG LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS MECHANICSVILLE LLC,
a Virginia limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CARY LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS NORTH RALEIGH LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CHAPEL HILL LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS GREENSBORO LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS DURHAM LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS WINSTON-SALEM LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS FAYETTEVILLE LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CHARLOTTE LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS MOORESVILLE LLC,
a North Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS SOUTH CAROLINA LLC,
a South Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS GREENVILLE LLC,
a South Carolina limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS ST. LOUIS LLC,
a Missouri limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS SOUTHERN ILLINOIS LLC,
an Illinois limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS AUSTIN CENTRAL LLC,
a Texas limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS AUSTIN NORTH LLC,
a Texas limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS HOUSTON LLC,
a Texas limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS FORT BEND LLC,
a Texas limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CONNECTICUT LLC,
a Connecticut limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS WEST HARTFORD LLC,
a Connecticut limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS EASTERN CONNECTICUT LLC,
a Connecticut limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CLEARWATER LLC,
a Florida limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS ST. PETERSBURG LLC,
a Florida limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS TAMPA LLC,
a Florida limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS CLEVELAND LLC,
an Ohio limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS NORTH DETROIT LLC,
a Michigan limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS MICHIGAN LLC,
a Michigan limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

GREENBROOK TMS BLOOMFIELD HILLS LLC,
a Michigan limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

ACHIEVE TMS CENTERS LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

ACHIEVE TMS ALASKA LLC,
an Alaska limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

TMS CENTER OF ALASKA LLC,
an Alaska limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

ACHIEVE TMS EAST, LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

ACHIEVE TMS CENTRAL, LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

CHECK FIVE, LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

CHECK STAFFING, LLC,
a Florida limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

CHFIVE, LLC,
a Delaware limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

1555 A NEW LLC,
a Florida limited liability company

By: /s/ Bill Leonard

Name: Bill Leonard

Title: President

The Payee hereby confirms its acceptance of the foregoing Note and its agreement with the terms, provisions, covenants and agreements set forth therein, as of the date first above written.

PAYEE:

NEURONETICS, INC.

By: /s/ Stephen Furlong

Name: Stephen Furlong

Title: EVP, Chief Financial Officer and Treasurer

Form of Warrant Certificate

Neuronetics Secures Up To \$60 Million in New Debt Financing with SLR Capital Partners, Provides Greenbrook TMS with \$6.0 Million Promissory Note

MALVERN, Pa., April 4, 2023 (GLOBE NEWSWIRE) — Neuronetics, Inc. (NASDAQ: STIM), a commercial stage medical technology company with a strategic vision of transforming the lives of patients whenever and wherever they need help with the best neurohealth therapies in the world, today provided a corporate update which includes entering into a new credit facility with investment affiliates managed by SLR Capital Partners, LLC (“SLR”) and providing Greenbrook TMS (“Greenbrook”) with a promissory note as part of an updated TMS device supply agreement.

New Credit Facility with SLR

The Company today announced that it has entered into an amendment to its senior secured credit facilities with SLR, which collectively provide for borrowings of up to \$60.0 million, comprised of \$37.5 million in three tranches of term loans, a “Term A Loan” in an aggregate amount of \$35.0 million, a “Term B Loan” in an aggregate amount of \$2.5 million, and a “Term C Loan” in an aggregate amount of \$22.5 million. The Term A Loans were fully drawn prior to the effectiveness of the Amendment. On March 29, 2023, the Company borrowed an aggregate amount of \$2.5 million under the Term B Loan. The maturity date of the \$60 million facility is March 29, 2028. Prior to the amendment, the maturity date of the Term A Loans was February 28, 2025.

“We are delighted to complete this successful, non-dilutive debt financing. The incremental capital will further strengthen our balance sheet, allowing the company to drive the continued commercial adoption of NeuroStar Advanced Therapy for Mental Health and with the continued goal of achieving cash flow breakeven in 2024,” said Keith J. Sullivan, President and Chief Executive Officer of Neuronetics. “We would like to express our appreciation for SLR’s ongoing support, and we look forward to continuing our long-term partnership.”

The maturity date of the credit facilities is March 29, 2028. The annual interest rate is equal to SOFR plus 5.65%, payable monthly in arrears. SOFR shall mean the greater of 1) SOFR for a term of one month and 2) 3.95% per annum. Rate shall reset monthly. The term loan facility provides for at least 36 months of interest-only payments at closing.

Updated TMS Device Supply Agreement with Greenbrook

The Company today announced that it has converted approximately \$5.9 million of Greenbrook's outstanding accounts payable balance to the Company and related transaction expenses into a \$6.0M senior secured promissory note.

"Greenbrook has been a strong partner for us for many years and has been instrumental in growing the adoption of TMS as a therapy for mental illness," said Mr. Sullivan. "We are happy to provide the additional cash flow buffer, which will help Greenbrook execute on its growth strategy moving forward."

All amounts borrowed under the Note will bear interest at a rate equal to the sum of (a) the floating interest rate of daily secured overnight financing rate as administered by the Federal Reserve Bank of New York on its website, plus (b) 7.65%. The Note matures on March 31, 2027. The Company has taken a security interest in all Greenbrook's assets on a pari passu with Greenbrook's lender and, under certain circumstances, will receive warrants to purchase Greenbrook shares at a discount to market.

Additionally, Greenbrook has agreed to relocate the NeuroStar systems from the treatment centers that will be closed in connection with Greenbrook's recently announced Restructuring Plan, to be installed and utilized in Greenbrook's treatment centers that will remain open.

About Neuronetics

Neuronetics, Inc. believes that mental health is as important as physical health. As a global leader in neuroscience, Neuronetics is redefining patient and physician expectations with its NeuroStar Advanced Therapy for Mental Health. NeuroStar is a non-drug, noninvasive treatment that can improve the quality of life for people suffering from neurohealth conditions when traditional medication has not helped. NeuroStar is FDA-cleared for adults with major depressive disorder (MDD), as an adjunct for adults with obsessive-compulsive disorder (OCD), and to decrease anxiety symptoms in adult patients with MDD that may exhibit comorbid anxiety symptoms (anxious depression). NeuroStar Advanced Therapy is the leading transcranial magnetic stimulation (TMS) treatment for MDD in adults with over 5.3 million treatments delivered. NeuroStar is backed by the largest clinical data set of any TMS system for depression, including the world's largest depression Outcomes Registry. Neuronetics is committed to transforming lives by offering an exceptional treatment that produces extraordinary results. For safety and prescribing information, [NeuroStar.com](https://www.neurostar.com).

“Safe harbor” statement under the Private Securities Litigation Reform Act of 1995:

Statements in the press release regarding Neuronetics, Inc. (the “Company”) that are not historical facts constitute “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements may be identified by terms such as “outlook,” “potential,” “believe,” “expect,” “plan,” “anticipate,” “predict,” “may,” “will,” “could,” “would” and “should” as well as the negative of these terms and similar expressions. These statements include those relating to the Company’s business outlook and cash flow expectations. These statements are subject to significant risks and uncertainties and actual results could differ materially from those projected. The Company cautions investors not to place undue reliance on the forward-looking statements contained in this release. These risks and uncertainties include, without limitation, risks and uncertainties related to: the impact of public health crises on the Company’s operations, manufacturing and supply chain interruptions or delays; the Company’s ability to execute its business strategy; the Company’s ability to achieve or sustain profitable operations due to its history of losses; the Company’s reliance on the sale and usage of its NeuroStar Advanced Therapy for Mental Health System to generate revenues; the scale and efficacy of the Company’s salesforce; the Company’s ability to retain talent; availability of coverage and reimbursement from third-party payors for treatments using the Company’s products; physician and patient demand for treatments using the Company’s products; developments in competing technologies and therapies for the indications that the Company’s products treat; product defects; the Company’s ability to obtain and maintain intellectual property protection for its technology; developments in clinical trials or regulatory review of NeuroStar Advanced Therapy for Mental Health System for additional indications; and developments in regulation in the United States and other applicable jurisdictions. For a discussion of these and other related risks, please refer to the Company’s recent SEC filings which are available on the SEC’s website at www.sec.gov. These forward-looking statements are based on the Company’s expectations and assumptions as of the date of this press release. Except as required by law, the Company undertakes no duty or obligation to update any forward-looking statements contained in this press release as a result of new information, future events, or changes in the Company’s expectations.

Neuronetics Investor Contact:

Mike Vallie or Mark Klausner
ICR Westwicke
443-213-0499
ir@neuronetics.com

Neuronetics Media Contact:

EvolveMKD
646-517-4220
NeuroStar@evolvemkd.com