

SECURITIES AND EXCHANGE COMMISSION

FORM 6-K

Current report of foreign issuer pursuant to Rules 13a-16 and 15d-16 Amendments

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TRINITY BIOTECH PLC

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Mailing Address

3 ROCK ROAD
SANDYFORD INDUSTRIAL
ESTATES
DUBLIN IRELAND L2 18

Business Address

IDA BUSINESS PARK, BRAY,
CO WICKLOW
IRELAND
DUBLIN IRELAND L2 18
01135312955111

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 6-K

REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULE 13a-16 OR 15d-16
UNDER THE SECURITIES EXCHANGE ACT OF 1934

For the month of December, 2021

TRINITY BIOTECH PLC

(Name of Registrant)

IDA Business Park
Bray, Co. Wicklow, Ireland
(Address of Principal Executive Office)

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1): _____

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7): _____

Indicate by check mark whether by furnishing the information contained in this Form, the registrant is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):
82- _____

EXPLANATORY NOTE

On December 15, 2021, Trinity Biotech plc (the “Company”), a leading developer and manufacturer of diagnostic products for the point-of-care and clinical laboratory markets, announced its results for the quarter ended September 30, 2021, the entry into a \$81.25 million loan facility to refinance substantially all of the existing \$99.9 million of exchangeable senior notes issued by the Company’s subsidiary, Trinity Biotech Investment Limited (the “Notes”) and exchange agreements for over 99% of the outstanding Notes, all subject to certain conditions precedent.

The Company and its subsidiaries entered into a \$81,250,000 senior secured term loan credit facility (the “Term Loan”) with Perceptive Advisors (“Perceptive”), an investment manager with an expertise in healthcare. Proceeds from the Term Loan, along with existing cash and the issuance of new American Depository Shares (“ADS”) in the Company, will be used to retire substantially all of the Notes.

The Term Loan will mature on the fourth anniversary of the closing date and accrues interest at an annual rate equal to 11.25% plus the greater of (a) one-month LIBOR and (b) one percent per annum, and interest will be payable monthly in arrears in cash. The Term Loan does not require any amortization, and the entire unpaid balance will be payable upon maturity.

The funding of the Term Loan is subject to a number of conditions precedent including the repayment of at least 99.7% of the Notes and approval by the Company’s shareholders of the Term Loan, an increase in the authorized share capital of the Company and the issuance of the Warrants. The Company intends to convene a general meeting of the Company to consider these matters in January 2022.

In connection with the Term Loan, the Company has agreed, subject to drawdown of the Term Loan, to issue warrants (the “Warrants”) exercisable for 2,500,000 of the Company’s ADSs to Perceptive. The per ADS exercise price of the Warrants is equal to the lower of i) the 10-day volume weighted average price (“VWAP”) for the Company’s ADSs for the 10 business days prior to December 15, 2021 and ii) the 10-day VWAP for the Company’s ADSs for the 10 business days prior to the drawdown date of the funding under the Term Loan. The Warrants are exercisable, in whole or part, until the seventh anniversary of the date of drawdown of the funding under the Term Loan.

In addition to the Term Loan, the Company has entered into exchange agreements (the “Exchange Agreements”) with five institutional investors that hold approximately \$99.7million of the outstanding Notes, which are puttable by the Holders in April 2022. Under the terms of this agreement each holder will receive \$ 0.87 of cash and the equivalent of \$0.08 of the Company’s ADS (based upon the 5-day volume weighted average price for the Company’s ADSs for the 5 business days prior to December 10, 2021, discounted by 13%) per \$1 nominal value of the Notes. The consummation of the Exchange Agreements is conditional upon (among other things) the approval by the Company’s shareholders of the issuance of ADSs pursuant to the Exchange Agreements and certain matters related to the funding of the Term Loan, with such approvals to be included in the agenda of the January 2022 general meeting of the Company.

Two of the Company’s existing board members, Jim Walsh and Kevin Tansley, have announced their intention to retire from the Company’s board in the coming months. The Company intends to retain an internationally recognized executive search firm to identify three suitably experienced and qualified candidates to join the Company’s board as independent directors. Following these appointments, the Company’s board will consist of five independent non-executive directors and two executive directors, Mr. Ronan O’Caoimh, Chairman and Chief Executive Officer and Mr. John Gillard, Chief Financial Officer. As part of this process the Company will seek to increase the diversity of its board membership.

In addition, the Company’s board has decided to update its corporate governance by among other things, adopting processes and independence requirements to become more consistent with Nasdaq Corporate Governance standards as they apply to U.S. domestic issuers.

The foregoing descriptions of the Term Loan and the Exchange Agreements are qualified in their entirety by reference to the full text of the Term Loan and Exchange Agreements which are filed as Exhibits 99.2 and 99.3 to this Current Report on Form 6-K and are incorporated in this Report by reference.

The information contained in Exhibit 99.1 is deemed “furnished” and not “filed” under Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

EXHIBIT INDEX

Exhibit	Description
99.1	Earnings Press Release for the Third Quarter Ended September 30, 2021
99.2	Credit Agreement and Guaranty Dated as of December 15, 2021 Among Trinity Biotech, Inc., Fitzgerald Industries International, Inc., Clark Laboratories, Inc. (D/B/A Trinity Biotech (USA)), Biopool U.S., Inc. (D/B/A Trinity Biotech Distribution), Primus Corporation, Mardx Diagnostics, Inc. and Immco Diagnostics, Inc. as the Borrowers, Trinity Biotech PLC and Certain of its Subsidiaries as Guarantors and Perceptive Credit Holdings III, LP, as Administrative Agent
99.3	Form of Exchange Agreement with Holders of Exchangeable Senior Notes

SIGNATURES

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

TRINITY BIOTECH PLC

(Registrant)

By: /s/ John Gillard

John Gillard

Chief Financial Officer

Date: December 16, 2021

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Press Release dated December 15, 2021

Contact: **Trinity Biotech plc**
John Gillard
(353)-1-2769800

Lytham Partners, LLC
Joe Diaz
(1)-602-889-9700
E-mail: investorrelations@trinitybiotech.com

Trinity Biotech Announces Q3 2021 Results, the Entry Into a \$81,250,000 Loan Facility to Refinance the Company's Exchangeable Senior Notes and Agreements To Repurchase Outstanding Exchangeable Senior Notes

DUBLIN, Ireland (December 15, 2021).... Trinity Biotech plc (Nasdaq: TRIB) (the "Company"), a leading developer and manufacturer of diagnostic products for the point-of-care and clinical laboratory markets, today announced results for the quarter ended September 30, 2021, the entry into a \$81.25million loan facility to refinance the existing \$99.9million of exchangeable senior notes issued by the Company's subsidiary, Trinity Biotech Investment Limited (the "Notes"), and exchange agreements for over 99.7% of the outstanding Notes, all subject to certain conditions precedent.

Quarter 3 2021 Results

Total revenues for Q3, 2021 were \$22.0m, which compares to \$32.0m in Q3, 2020, a decrease of \$10.0m and which were broken down as follows:

	2020 Quarter 3 US\$'000	2021 Quarter 3 US\$'000	Increase/ (decrease) %
Point-of-Care	2,065	4,113	99.2%
Clinical Laboratory	29,949	17,891	(40.3)%
Total	32,014	22,004	(31.3)%

Point-of-Care revenues for Q3, 2021 increased from \$2.1m to \$4.1m when compared to Q3, 2020, an increase of 99.2%. This increase was attributable to higher HIV revenues from Africa related sales. Revenues in Q3 2020 had been negatively impacted by logistical constraints caused by the pandemic. While the situation somewhat improved in 2021, COVID-19 continues to have the potential to cause disruption to HIV testing in Africa.

Clinical Laboratory revenues decreased from \$30.0m to \$17.9m, which represents a decrease of 40.3% compared to Q3, 2020. The decrease is mainly due to lower revenues from within our COVID-19 related portfolio of products. In Q3 2020, demand for PCR Viral Transport Media ("VTM") products was exceptional while there was limited worldwide manufacturing capacity. As the pandemic has persisted, manufacturing capacity has ramped up significantly with a consequent negative impact on selling prices.

As stated previously, the Company noted a significant reduction in demand for new orders of VTM from early 2021 as COVID-19 testing volumes dropped and customers utilised stockpiled product. While the situation relating to COVID-19 products remains very fluid, with the evolving impact of the new variants the Company has seen increased customer interest in VTM products over recent months and has resumed manufacturing VTM products, albeit in lower volumes compared to late 2020. The Company has retained the capability to increase manufacturing volumes should market conditions warrant it.



Gross profit for Q3, 2021 amounted to \$8.9m, representing a gross margin of 40.4%. This compares to 52.4% achieved in Q3, 2020. The reduction in gross margin is mainly due to the exceptionally strong sales and margins recorded in Q3, 2020 within our COVID-19 related portfolio of products.

Other operating income increased from \$3k in Q3, 2020 to \$1.0m in Q3, 2021. The \$1.0m income relates to loan funding received under the U.S. government's Paycheck Protection Program ("PPP"). A PPP loan received by the Company in 2021, totalling \$1.0m, was forgiven during Q3 2021 and has therefore been recognised as income this quarter. This loan was treated as a short term liability at June 30, 2021. Subsequent to the quarter end, the final remaining PPP loan, for \$0.7m, was also forgiven and we expect it will be recognised as income in Q4, 2021.

Research and Development expenses decreased by \$0.2m, whilst Selling, General and Administrative (SG&A) expenses decreased by \$0.4m to \$5.9m when compared to Q3, 2020. SG&A costs in Q3 2020 included a significant foreign exchange loss related to the marking-to-market of Euro-denominated lease liabilities.

Operating profit for the quarter was \$2.8m, which represents a decrease of \$6.3m compared to Q3, 2020 and was attributable to lower revenues and gross margin offset slightly by lower indirect costs and higher other operating income.

Financial Expenses amounted to \$1.2m, which was in line with Q3, 2020. Of this, \$1.0m related to interest payable on the Company's Exchangeable Notes, with the remaining \$0.2m representing notional financing charges arising on leased assets (IFRS 16). Non-cash financial income of \$31,000 was recognised in this quarter's income statement, again in relation to the Exchangeable Notes. This was due to a notional gain of \$0.2m arising due to a decrease in the fair value of the derivatives embedded in these notes as required by IFRS 9, partially offset by accretion interest on the Exchangeable Notes of just under \$0.2m.

The profit before tax, (before the impact of impairment, non-cash financial items and once-off charges) for the quarter was \$1.6m, in comparison to \$7.9m for the equivalent period last year. Profit after tax for the quarter was \$1.3m in comparison to \$7.3m for Q3, 2020.

In Q3, 2021, the basic earnings per ADS for the quarter was 6.3 U.S. cents versus 35.0 U.S. cents in Q3, 2020. Unconstrained diluted earnings per ADS (excluding impairment, once-off charges and non-cash financial items) for the quarter amounted to 8.7 U.S. cents, which compares to 32.2 U.S. cents in the equivalent quarter in 2020.

Earnings before interest, tax, depreciation, amortisation and share option expense (Adjusted EBITDASO) for the quarter was \$3.9m, and was made up as follows:

	<i>\$m</i>
Operating Profit	2.8
Depreciation	0.6
Amortisation	0.2
Adjusted EBITDA	3.6
Share Option Expense	0.3
<i>Adjusted EBITDASO</i>	<i>3.9</i>

Cash Flow

The Group's cash balance at the end of Q3, 2021 was \$27.5m compared to \$28.6m at the end of Q2, 2021. This cash reduction was driven by capital expenditure mainly on R&D projects and working capital movements partly offset by a refund of taxes.

Planned Capital Structure Transactions

The Company announced today that it and its subsidiaries entered into a \$81,250,000 senior secured term loan credit facility (the "Term Loan") with Perceptive Advisors ("Perceptive"), an investment manager with an expertise in healthcare. Proceeds from the Term Loan, along with existing cash and the issuance of new American Depository Shares ("ADS") in the Company, will be used to retire the Notes.

The Term Loan will mature on the fourth anniversary of the drawdown date and accrues interest at an annual rate equal to 11.25% plus the greater of (a) one-month LIBOR and (b) one percent per annum, and interest will be payable monthly in arrears in cash. The Term Loan does not require any amortization, and the entire unpaid balance will be payable upon maturity. The Term Loan can be repaid, in part or in full, at a premium before the end of the four-year term.

In connection with the Term Loan the Company has agreed, subject to drawdown of the Term Loan, to issue warrants (the "Warrants") exercisable for 2,500,000 of the Company's ADSs to Perceptive. The per ADS exercise price of the Warrants is equal to the lower of i) the 10-day volume weighted average price ("VWAP") for the Company's ADSs for the 10 business days prior to the Closing Date of the Credit Agreement for the Term Loan and ii) the 10-day VWAP for the Company's ADSs for the 10 business days prior to the drawdown date of the funding under the Term Loan. The Warrants are exercisable, in whole or part, until the seventh anniversary of the date of drawdown of the funding under the Term Loan.

The drawdown of the Term Loan by the Company is subject to a number of conditions precedent including the repayment of at least 99.7% of the Notes and approval by the Company's shareholders of the Term Loan, an increase in the authorized share capital of the Company and the issuance of the Warrants. The Company intends to convene a general meeting of the Company to consider these and other matters in January 2022 and intends to issue a notice convening such meeting in the coming days.

In addition to the Term Loan, the Company has entered into exchange agreements (the "Exchange Agreements") with five institutional investors that hold approximately \$99,700,000 of the outstanding Notes, which are puttable by the holders to the Company, at par, in April 2022. Under the terms of this agreement each holder has agreed to exchange their Notes at a discount to par and each holder will receive \$0.87 of cash and the equivalent of \$0.08 of the Company's ADS (based upon the 5-day trailing VWAP of the ADSs on NASDAQ on December 9, 2021, discounted by 13%) per \$1 nominal value of the Notes. This results in an effective discount on the exchange of the Notes of approximately 4%. The consummation of the Exchange Agreements is conditional upon (among other things) the approval by the Company's shareholders of the issuance of ADSs pursuant to the Exchange Agreements and certain matters related to the drawdown of the Term Loan, with such approvals to be included in the agenda of the January 2022 general meeting of the Company.

The completion of these pending transactions will improve the Company's capital structure by reducing gross debt by approximately \$19 million with the Company having no material debt maturities in the next four years. In addition, the fact that the Term Loan can be repaid, in part or in full, before the end of the four-year term should allow the Company increased optionality regarding its future capital structure.

Piper Sandler & Co. acted as the Company's advisor in connection with these transactions.

Business Developments

COVID-19 Rapid Antigen Test

As the COVID-19 pandemic continues, with new variants emerging, it is now apparent that despite widespread vaccine availability, convenient and rapid testing is likely to be a key tool in day-to-day COVID-19 management for some time into the future.

Trinity Biotech has developed the rapid Uni-Gold™ SARS-CoV-2 Antigen test to serve this market. The test uses our established lateral flow technology and provides a result in 12 minutes. The test has demonstrated impressive performance characteristics in evaluations and we are now in the process of transferring it to our high volume automated manufacturing facility in Bray, Ireland.

We expect to obtain CE mark and launch this product in Europe within the next 6 months with other markets to follow. Given our automated production capabilities we expect this to be a significant growth driver of the business.

HIV Testing (TrinScreen™ HIV)

Trinity Biotech has developed a new product, TrinScreen™ HIV, specifically for the Africa HIV screening market. The final part of the approval process includes World Health Organisation (“WHO”) review of the multi-site clinical evaluation which concluded in Africa in 2020. This final part of the submission dossier was submitted to the WHO in March 2021.

In late September 2021, the WHO requested additional information on the submission and this information was provided allowing the submission assessment to continue. Typically, it would be expected that the remainder of the approval process would conclude in 30-60 days. However, COVID-19 is having a significant impact on the WHO review process for non COVID-19 related products but we do expect WHO approval shortly.

This product, once approved, will allow the Company to build on its strong brand presence in HIV testing in Africa. The Company believes the TrinScreen™ HIV product has a number of key advantages compared to the current main incumbent product and expects a positive response from the WHO and the opportunity to expand its market share in the African HIV market.

Board & Corporate Governance Updates

Two of the Company’s existing board members, Dr. Jim Walsh and Kevin Tansley, have announced their intention to retire from the Company’s board in the coming months. As a result, the Company intends to retain an internationally recognized executive search firm to identify three suitably experienced and qualified candidates to join the Company’s board as independent directors. Following these appointments, the Company’s board will consist of five independent non-executive directors and two executive directors, Mr. Ronan O’Caoimh, Chairman and Chief Executive Officer and Mr. John Gillard, Chief Financial Officer. As part of this process the Company will seek to increase the diversity of its board membership.

In addition, the Company’s board has decided to update its corporate governance by among other things, adopting processes and independence requirements to become more consistent with Nasdaq Corporate Governance standards applicable to U.S. domestic issuers. The Company intends to make such changes during 2022.

Comments

Commenting on the capital structure transactions, Ronan O’Caoimh, Chief Executive Officer stated, “We are very pleased to enter into this financing arrangement with Perceptive Advisors. As a specialist healthcare financier I am confident that they will be a great partner to Trinity Biotech as we embark on our next phase of development. As stated in the past, our board has been very focused on finding a financing solution for the Company’s Exchangeable Senior Notes with the best interests of shareholders and the Company in mind. To that end, after a very extensive process, I believe that the Perceptive financing, coupled with the Exchange Agreements, provides the best available solution to the Company’s capital needs in a way that minimizes the dilution to existing shareholders and positions the Company for future growth. To that end, the board will be strongly recommending to shareholders that they vote to support the various shareholder approvals required to effect these transactions”.

Sam Chawla, Credit Portfolio Manager at Perceptive Advisors, stated, “We are impressed with the work that the Trinity Biotech team has done to date. Perceptive is excited to partner with Trinity and to facilitate the Company’s next phase of growth.”

Q3 2021 Earnings Conference Call

The Company has scheduled a conference call for Thursday December 16, 2021 at 11:00am ET (4:00pm GMT) to discuss the results of the quarter.

Interested parties can access the call by dialling:

US Toll Free:	1-844-861-5499
International Toll:	1-412-317-6581
Ireland Toll:	014311269
Ireland Toll Free:	1800932830

Please ask to be joined into the Trinity Biotech call.

A simultaneous webcast of the call can be accessed at:

<https://services.choruscall.com/mediaframe/webcast.html?webcastid=IrYHDNHm>

A replay of the call can be accessed until December 23, 2021 by dialling:

US Toll Free:	1-877-344-7529
International Toll:	1-412-317-0088
Replay Code:	10159977

To access the replay using an international dial-in number, please see the link below:

<https://services.choruscall.com/ccforms/replay.html>

A webcast of the call will be available for 30 days at:

<https://services.choruscall.com/mediaframe/webcast.html?webcastid=IrYHDNHm>

Replays will be available 1 hour after the end of the conference.

Use of Non-IFRS Financial Information

The Company reports financial results in accordance with IFRS. To supplement the consolidated financial statements presented in accordance with IFRS, the Company presents the Non-IFRS presentation of Adjusted EBITDA and Adjusted EBITDASO. These non-IFRS measures are not in accordance with, nor are they a substitute for, IFRS measures. The Company uses these Non-IFRS measures to evaluate and manage the Company’s operations internally. The Company is also providing this information to assist investors in performing additional financial analysis. Reconciliation between the company’s results on a IFRS and non-IFRS basis is provided in a table above.

The above mentioned numbers are unaudited.

Forward Looking Statements

Certain statements made in this release that are not historical are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The words “estimate”, “project”, “intend”, “expect”, “believe” and similar expressions are intended to identify forward-looking statements. These forward-looking statements involve known and unknown risks and uncertainties. Many factors could cause the actual results, performance or achievements of Trinity Biotech to be materially different from any future results, performance or achievements that may be expressed or implied by such forward-looking statements, including, but not limited to, the outcome of the shareholder approval process required for the pending Term Loan and Exchange Agreements, the results of research and development efforts, risks associated with the outbreak and global spread of the coronavirus (COVID19), the effect of regulation by the U.S. Food and Drug Administration and other governmental agencies, the impact of competitive products, product development commercialization and technological difficulties. For additional information regarding these and other risks and uncertainties associated with Trinity Biotech’s business, reference is made to our reports filed from time to time with the U.S. Securities and Exchange Commission. We undertake no obligation to update or revise any forward-looking statements for any reason.

About Trinity Biotech Plc

Trinity Biotech develops, acquires, manufactures and markets diagnostic systems, including both reagents and instrumentation, for the point-of-care and clinical laboratory segments of the diagnostic market. The products are used to detect infectious diseases and to quantify the level of Haemoglobin A1c and other chemistry parameters in serum, plasma and whole blood. Trinity Biotech sells direct in the United States, Germany, France and the U.K. and through a network of international distributors and strategic partners in over 75 countries worldwide. For further information, please see the Company's website: www.trinitybiotech.com.

About Perceptive Advisors

Founded in 1999 and based in New York, NY, Perceptive Advisors is an investment management firm with over \$5 billion in assets whose activities are focused on supporting the progress of the life sciences industry by identifying opportunities and directing financial resources to the most promising technologies in healthcare. For more information about Perceptive, visit www.perceptivelife.com.

Trinity Biotech plc
Consolidated Income Statements

(US\$000's except share data)

	Three Months Ended September 30, 2021 (unaudited)	Three Months Ended September 30, 2020 (unaudited)	Nine Months Ended September 30, 2021 (unaudited)	Nine Months Ended September 30, 2020 (unaudited)
Revenues	22,004	32,014	73,441	69,215
Cost of sales	(13,104)	(15,238)	(42,601)	(36,292)
Gross profit	8,900	16,776	30,840	32,923
Gross margin %	40.4%	52.4%	42.0%	47.6%
Other operating income	1,043	3	3,950	20
Research & development expenses	(1,063)	(1,265)	(3,556)	(3,796)
Selling, general and administrative expenses	(5,880)	(6,273)	(18,180)	(17,364)
Indirect share based payments	(252)	(156)	(942)	(504)
Operating profit	2,748	9,085	12,112	11,279
Financial income	1	3	3	37
Financial expenses	(1,199)	(1,215)	(3,611)	(3,668)
Net financing expense	(1,198)	(1,212)	(3,608)	(3,631)
Profit before tax , impairment, once-off & non-cash items	1,550	7,873	8,504	7,648
Income tax expense	(260)	(387)	(1,020)	(549)
Profit after tax before impairment, once-off & non-cash items	1,290	7,486	7,484	7,099
Non-cash financial income/(expense)*	31	(161)	724	(1,038)
Impairment & once-off items	-	-	(6,068)	(2,425)
Profit after tax	1,321	7,325	2,140	3,636
Earnings per ADS (US cents)	6.3	35.0	10.2	17.4
Earnings per ADS (US cents)***	6.2	35.8	35.8	34.0
Diluted earnings per ADS (US cents)**	8.7	32.2	39.1	39.0
Weighted average no. of ADSs used in computing basic earnings per ADS	20,901,703	20,901,703	20,901,703	20,901,703
Weighted average no. of ADSs used in computing diluted earnings per ADS	26,397,791	26,321,307	26,828,139	25,894,218

*Non-cash financial income/(expense) refers to accretion interest and fair value adjustments.

** Under IAS 33 Earnings per Share, diluted earnings per share cannot be anti-dilutive. In a reporting period where it is anti-dilutive, diluted earnings per ADS should be constrained to equal basic earnings per ADS. Diluted EPS is calculated excluding impairment, once-off charges & non-cash financial items.

*** Excluding impairment, once-off charges & non-cash financial items.

The above financial statements have been prepared in accordance with the principles of International Financial Reporting Standards and the Company's accounting policies but do not constitute an interim financial report as defined in IAS 34 (Interim Financial Reporting). Impairment, once-off charges & non-cash financial items are non-GAAP accounting presentations.

Trinity Biotech plc
Consolidated Balance Sheets

	September 30, 2021 US\$ '000 (unaudited)	June 30, 2021 US\$ '000 (unaudited)	Mar 31, 2021 US\$ '000 (unaudited)	Dec 31, 2020 US\$ '000 (unaudited)
ASSETS				
Non-current assets				
Property, plant and equipment	6,258	6,501	8,648	8,547
Goodwill and intangible assets	34,319	32,864	35,200	33,860
Deferred tax assets	3,711	3,617	4,205	4,185
Other assets	244	279	315	355
Total non-current assets	44,532	43,261	48,368	46,947
Current assets				
Inventories	32,116	34,705	37,582	30,219
Trade and other receivables	16,816	15,358	14,864	22,668
Income tax receivable	1,840	2,782	2,888	3,086
Cash, cash equivalents and deposits	27,475	28,618	32,277	27,327
Total current assets	78,247	81,463	87,611	83,300
TOTAL ASSETS	122,779	124,724	135,979	130,247
EQUITY AND LIABILITIES				
Equity attributable to the equity holders of the parent				
Share capital	1,213	1,213	1,213	1,213
Share premium	16,187	16,187	16,187	16,187
Treasury shares	(24,922)	(24,922)	(24,922)	(24,922)
Accumulated surplus	13,685	12,093	12,561	10,573
Translation reserve	(5,376)	(5,090)	(5,189)	(5,293)
Other reserves	23	23	23	23
Total equity/(deficit)	810	(496)	(127)	(2,219)
Current liabilities				
Income tax payable	1,018	751	389	154
Trade and other payables	18,324	21,304	30,881	26,488
Exchangeable senior note payable ¹	83,159	83,190	-	-
Provisions	376	376	376	416
Total current liabilities	102,877	105,621	31,646	27,058
Non-current liabilities				
Exchangeable senior note payable ¹	-	-	84,045	83,884
Other payables	14,555	15,283	15,625	16,619
Deferred tax liabilities	4,537	4,316	4,790	4,905
Total non-current liabilities	19,092	19,599	104,460	105,408
TOTAL LIABILITIES	121,969	125,220	136,106	132,466
TOTAL EQUITY AND LIABILITIES	122,779	124,724	135,979	130,247

¹ Exchangeable senior notes having a nominal value of US\$99.9 million mature on April 1, 2045, subject to earlier repurchase, redemption or exchange. The exchangeable notes (and the related embedded derivatives) have been presented within current liabilities at June 30 and September 30, 2021 as the Company does not have an unconditional right to defer settlement of the exchangeable notes for at least 12 months after the reporting period due to the existence of a put option which allows the holders to put the exchangeable notes to the issuer at par on April 1, 2022. This accounting treatment of the exchangeable notes is required by IAS 1. On December 15, 2021, Trinity Biotech agreed terms with 5 holders of the exchangeable notes for the repurchase of approximately 99.8% of the outstanding notes on an unspecified date which is likely to be in early 2022. The agreement is conditional on certain lending conditions being met and requires shareholder approval. In respect of the company's financial position as at September 30, 2021, the agreement to repurchase the exchangeable notes is a non-adjusting event under IAS 10 and consequently no adjustments have been recorded in the period ending 30 September as a result of this event. For more information on the repurchase of the exchangeable notes, refer to the Company's announcement on December 15, 2021. Additional information relating to the accounting treatment for the exchangeable notes may be found in the Company's Annual Report on Form 20-F filing filed with the U.S. Securities and Exchange Commission.

The above financial statements have been prepared in accordance with the principles of International Financial Reporting Standards and the Company's accounting policies but do not constitute an interim financial report as defined in IAS 34 (Interim Financial Reporting).

Trinity Biotech plc
Consolidated Statement of Cash Flows

(US\$000's)

	Three Months Ended September 30, 2021 (unaudited)	Three Months Ended September 30, 2020 (unaudited)	Nine Months Ended September 30, 2021 (unaudited)	Nine Months Ended September 30, 2020 (unaudited)
Cash and cash equivalents at beginning of period	28,618	15,570	27,327	16,400
Operating cash flows before changes in working capital	2,226	9,722	10,750	13,501
Changes in working capital	(1,777)	(2,551)	(3,103)	(2,476)
Cash generated from operations	<u>449</u>	<u>7,171</u>	<u>7,647</u>	<u>11,025</u>
Net Interest and Income taxes (paid)/received	1,092	(141)	1,190	256
Capital Expenditure & Financing (net)	(1,984)	(1,900)	(6,334)	(6,820)
Payments for Leases (IFRS 16)	(700)	(790)	(2,121)	(2,361)
Free cash flow	(1,143)	4,340	382	2,100
Payment of HIV/2 License Fee	-	-	-	(1,112)
30 year Exchangeable Note interest payment	-	-	(1,998)	(1,998)
Proceeds received under Paycheck Protection Program	-	-	1,764	4,520
Cash and cash equivalents at end of period	<u>27,475</u>	<u>19,910</u>	<u>27,475</u>	<u>19,910</u>

The above financial statements have been prepared in accordance with the principles of International Financial Reporting Standards and the Company's accounting policies but do not constitute an interim financial report as defined in IAS 34 (Interim Financial Reporting).

CREDIT AGREEMENT AND GUARANTY

dated as of

DECEMBER 15, 2021

among

TRINITY BIOTECH, INC.,
FITZGERALD INDUSTRIES INTERNATIONAL, INC.,
CLARK LABORATORIES, INC. (D/B/A TRINITY BIOTECH (USA)),
BIOPOL U.S., INC. (D/B/A TRINITY BIOTECH DISTRIBUTION),
PRIMUS CORPORATION,
MARDX DIAGNOSTICS, INC. AND
IMMCO DIAGNOSTICS, INC.
as the Borrowers,

THE GUARANTORS FROM TIME TO TIME PARTY HERETO,
as Guarantors

and

PERCEPTIVE CREDIT HOLDINGS III, LP,
as Administrative Agent and as a Lender

\$81,250,000

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- EXHIBIT I — Form of Collateral Questionnaire
- EXHIBIT J — Form of Warrant Certificate
- EXHIBIT K — Form of Intercompany Subordination Agreement

CREDIT AGREEMENT AND GUARANTY, dated as of December 15, 2021 (this “*Agreement*”), among TRINITY BIOTECH, INC., a Delaware corporation (“*U.S. Holdings*”), FITZGERALD INDUSTRIES INTERNATIONAL, INC., a Delaware corporation (“*U.S. Fitzgerald*”) CLARK LABORATORIES, INC. (d/b/a Trinity Biotech (USA)), a New York corporation (“*U.S. Clark*”), BIOPOOL US INC., a Delaware corporation (d/b/a Trinity Biotech Distribution) (“*U.S. Biopool*”), PRIMUS CORPORATION, a Missouri corporation (“*U.S. Primus*”), MARDX DIAGNOSTICS, INC., a California corporation (“*U.S. MarDx*”), IMMCO DIAGNOSTICS, INC., a Delaware corporation (“*U.S. Immco*” and together with U.S. Holdings, U.S. Fitzgerald, U.S. Clark, U.S. Biopool, U.S. Primus and U.S. MarDx, each a “*Borrower*” and collectively, the “*Borrowers*”), certain Guarantors from time to time parties hereto, the lenders from time to time party hereto (each, as a “*Lender*” and collectively, the “*Lenders*”), and PERCEPTIVE CREDIT HOLDINGS III, LP, a Delaware limited partnership (“*Perceptive*”), as administrative agent for the Lenders (in such capacity, together with its successors and assigns, the “*Administrative Agent*”).

WITNESSETH:

The Borrowers have requested that the Lenders make a term loan to the Borrowers, and the Lenders are prepared to make such loan on and subject to the terms and conditions hereof. Accordingly, the parties agree as follows:

ARTICLE I

DEFINITIONS

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

“*510(k)*” means (a) any premarket notification and corresponding FDA clearance for a Device pursuant to FDA regulations, (b) all substantially equivalent or similar notifications, applications and clearances with respect to any other non-United States Regulatory Authority, including the EMA, HPRA, and Health Canada, ANVISA and (iii) all amendments, supplements and other additions and modifications thereto, and all documents, data and other information concerning any applicable Device which are necessary for, filed with, incorporated by reference in, or otherwise supportive of any of the foregoing.

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

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

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

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

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

“*Administrative Borrower*” has the meaning set forth in Section 13.21.

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

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

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

“*AIB*” means Allied Irish Banks, p.l.c.

“*AIB Credit Parties*” means Parent, Trinity Biotech Manufacturing Limited, Trinity Biotech Financial Services Limited, Benen Trading Limited, U.S. Immco, U.S. Holdings, U.S. Clark, U.S. Mardx and U.S. Primus.

“*AIB Facilities Letter*” means that certain letter dated as of January 13, 2016 from AIB and addressed to Parent and cc'ing the other AIB Credit Parties, establishing AIB Facility 1, AIB Facility 2, AIB Facility 3 and AIB Facility 4, as such letter may be amended, amended and restated and otherwise modified pursuant to the terms of this Agreement.

“*AIB Facility 1*” means the foreign exchange & contracts facility, established pursuant to the AIB Facilities Letter with Parent, Trinity Biotech Manufacturing Limited and Trinity Biotech Financial Services Limited, as borrowers in an amount of EUR (€)1,016,000 pursuant to the terms set forth in the AIB Facilities Letter.

“*AIB Facility 2*” means the leasing facility, established pursuant to the AIB Facilities Letter with AIB Leasing Limited and/or AIB, as the relevant lender and Parent, Trinity Biotech Manufacturing Limited and Trinity Biotech Financial Services Limited, as lessees in the amount of EUR (€)4,000,000 pursuant to the terms set forth in the AIB Facilities Letter.

“*AIB Facility 3*” means the bank guaranty facility, undertaken by AIB to third parties on behalf of an AIB Credit Party in the amount of EUR (€)170,000 pursuant to the terms set forth in the AIB Facilities Letter.

“*AIB Facility 4*” means the Take Out Guarantee in favor of AIB Leasing Limited by an AIB Credit Party in in the amount of EUR (€)4,000,000 pursuant to the terms set forth in the AIB Facilities Letter.

“*American Depositary Receipts*” means the American Depositary Receipts (representing the American Depositary Shares) issued by The Bank of New York Mellon, as depositary of the American Depositary Shares and issuer of the American Depositary Receipts.

“*American Depositary Shares*” means the American Depositary Shares (represented by American Depositary Receipts) of Trinity Biotech plc held by The Bank of New York Mellon, as depositary.

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

“*Anti-Terrorism Laws*” means any laws or regulations relating to terrorism or money laundering, including, without limitation the *Bank Secrecy Act* (31 U.S.C. §§ 5311 *et seq.*), the *Money Laundering Control Act of 1986* (18 U.S.C. §§ 1956 *et seq.*), USA Patriot Act, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), Part II.1 of the *Criminal Code* (Canada), regulations promulgated pursuant to the *Special Economic Measures Act* (Canada), and the *United Nations Act* (Canada), and any similar law enacted in any of the United States, Canada, or any other jurisdiction applicable to the Obligors and their Affiliates after the date of this Agreement.

“*ANVISA*” means Agência Nacional de Vigilância Sanitária of Brazil and any successor thereto.

“*Applicable Margin*” means 11.25% per annum.

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

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

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

“*Available Tenor*” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (b) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

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

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

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

“*Benchmark*” means, initially, LIBOR; *provided* that if a replacement of the Benchmark has occurred pursuant to Section 3.02(b), then “*Benchmark*” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to “*Benchmark*” shall include, as applicable, the published component used in the calculation thereof.

“*Benchmark Replacement*” means, for any Available Tenor, the alternate benchmark rate (which may include Term SOFR) that has been selected by the Administrative Agent and the Administrative Borrower giving due consideration to (a) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for Dollar-denominated credit facilities; *provided* that in no event shall the Benchmark Replacement rate be less than 1.00%.

“*Benchmark Replacement Conforming Changes*” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “*Business Day*,” the definition of “*Interest Period*,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“*Benchmark Transition Event*” means, with respect to any then-current Benchmark other than LIBOR, the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that such administrator has ceased to provide all Available Tenors of such Benchmark, permanently or indefinitely, *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark.

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

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

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

“*Borrower*” and “*Borrowers*” have the meaning set forth in the introduction hereto.

“*Borrowing*” means the Term Loan made by the Lenders on the Funding Date.

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

“*Bray Leases*” means (a) that certain Lease Agreement between Ronan O’Caoimh and Jim Walsh with Trinity Biotech Manufacturing Limited for the office in Bray, Co. Wicklow Ireland dated November 26, 2004, (b) that certain Indenture between Jim Walsh and Trinity Biotech Manufacturing Limited dated December 20, 2007 and (c) that certain Lease between O’Caoimh, O’Boyle and Trinity Biotech Manufacturing Limited dated July 2016.

“*Brazilian Subsidiary*” means Trinity Biotech Do Brasil LTDA.

“*Business Day*” means a day (other than a Saturday or Sunday) on which commercial banks are not authorized or not required to close in New York City and, when determined in connection with notices and determinations in respect of LIBOR or the Term Loan or any funding, Interest Period or any payments in respect of the Term Loan so long as the Benchmark is LIBOR, that is also a day on which dealings in Dollar deposits are carried on in the London interbank market.

“*Canadian Bankruptcy Legislation*” means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada), and all other liquidation, winding-up, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, plan of arrangement, reorganization, proposal or similar statutes, laws, rules and regulations of Canada, or any province or territory thereof or any other applicable jurisdictions, in effect from time to time.

“*Canadian Defined Benefit Pension Plan*” means a pension plan for the purposes of any applicable pension benefits standards, statute or regulation in Canada, which contains a “defined benefit provision,” as defined in subsection 147.1(1) of the *Income Tax Act* (Canada).

“*Canadian Intellectual Property Security Agreements*” means Trademark security agreements, to be dated as of the Funding Date, entered into by U.S. Primus and Phoenix Bio-Tech Corp, in favor of the Administrative Agent for the benefit of the Lenders, each in form and substance satisfactory to the Administrative Agent.

“*Canadian Obligor*” means an Obligor incorporated or organized under the laws of Canada.

“*Canadian Pension Plan*” means a “registered pension plan” (as defined in subsection 248(1) of the *Income Tax Act* (Canada) sponsored or administrated by one or more of the Obligors or any of their Subsidiaries.

“*Canadian Pledge Agreement*” means the Canadian Pledge Agreement, to be dated as of the Funding Date, among Parent, the Lenders and the Administrative Agent, pledging 100% of the Equity Interests in Phoenix Bio-Tech Corp. in favor of the Administrative Agent for the benefit of the Lenders.

“*Canadian Security Agreement*” means the Canadian Security Agreement, to be dated as of the Funding Date, in substantially the form of Exhibit G-2, among the Obligors organized under the laws of Canada, the Lenders and the Administrative Agent, granting a security interest in the personal Property constituting Collateral thereunder in favor of the Administrative Agent for the benefit of the Lenders.

“*Capital Lease Obligations*” means, as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal Property which obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under IFRS and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined substantially in accordance with IFRS; *provided* that any lease that would have been considered an operating lease under IFRS as in effect as of December 31, 2018 shall be treated as an operating lease for all purposes under this Agreement and the other Loan Documents, and all obligations in respect thereof shall be excluded from the definition of Indebtedness.

“*Casualty Event*” means any actual or constructive loss, condemnation, destruction, confiscation, requisition, seizure or forfeiture of any asset of the Borrowers or any other Obligor, with a fair market value as of the date of such event, individually or in the aggregate, of greater than \$1,000,000 in any calendar year.

“*Cayman Subsidiary*” means Trinity Biotech Investment Limited.

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

(a) any “person” or “group” (within the meaning of Rule 13d-5 of the Exchange Act as in effect on the date hereof) shall own, directly or indirectly, beneficially or of record, shares representing 40% or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent;

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

(c) Parent shall cease to own directly or indirectly, determined on a fully diluted basis, 100% of the issued and outstanding Equity Interests of the Obligors; and

(d) each Obligor (other than Parent) shall cease to own directly, beneficially and of record, determined on a fully diluted basis, 100% of the issued and outstanding Equity Interests of its Subsidiaries (except an Immaterial Foreign Subsidiary).

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

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

“*Closing Date*” means the Business Day on which all of the conditions set forth in Section 6.01 have been satisfied or waived by the Lenders.

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

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

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

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

“*COMI*” means center of main interests within the meaning, and for the purposes, of the EU Insolvency Regulation.

“*Commitment*” means the commitment of a Lender to make or otherwise fund the Term Loan and “*Commitments*” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Commitment is set forth on Schedule 1. The aggregate amount of the Commitments as of the Closing Date is \$81,250,000.

“*Commitment Termination Date*” means January 28, 2022

“*Commodity Account*” has the meaning set forth in the U.C.C.

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

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

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

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

“Controlled Account” has the meaning set forth in Section 8.18(a).

“Convertible Notes” means those certain exchangeable senior notes issued pursuant to the Indenture dated as April 9, 2015, by the Cayman Subsidiary and guaranteed by Parent.

“Convertible Notes Funding Actions” means the series of actions, to be agreed among the Obligors, with the approval of the Administrative Agent at least three (3) Business Days prior to the Funding Date to fund repayment of Convertible Notes on the Funding Date.

“Copyrights” means all copyrights, copyright registrations and applications for copyright registrations, including all renewals and extensions thereof, all rights to recover for past, present or future infringements thereof and all other rights whatsoever accruing thereunder or pertaining thereto.

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

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

“Deposit Account” has the meaning set forth in the U.C.C. (and includes, for greater certainty, any deposit account maintained with a bank or other financial institution in any Canadian jurisdiction).

“Designated Person” means a person or entity:

- (a) listed in the annex to, or otherwise targeted by the provisions of, the Executive Order (as disclosed by World-Check or another reputable commercially available database);
- (b) named as a “Specially Designated National and Blocked Person” on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list (as disclosed by World-Check or another reputable commercially available database); or
- (c) with which the Lenders are prohibited from dealing or otherwise engaging in any transaction by any Economic Sanctions Laws or Irish Economic Sanctions Laws.

“*Device*” means any product that meets the definition of “device” as set forth in Section 321 of the FD&C Act, including (a) any medical instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related item, including any component, part or accessory, that (i) is intended for use in the diagnosis of disease, malady or other conditions or in the cure, mitigation, treatment or prevention of disease or malady, in man or other animals, or is intended to affect the structure or any function of the body of man or other animals, (ii) does not achieve its primary intended purpose or purposes through chemical action within or on the body of man or other animals and (iii) is not dependent upon being metabolized for the achievement of its primary intended purpose or purposes and (b) any other product that meets the definition of “device” as set forth in Section 321 of the FD&C Act.

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

“*Disqualified Equity Interests*” means, with respect to any Person, any Equity Interest of such Person that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable upon exercise or otherwise), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), including pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends or other distributions in cash or other securities that would constitute Disqualified Equity Interests, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is one hundred and eighty (180) days after the Stated Maturity Date; *provided* that, if such Equity Interests are issued pursuant to any plan for the benefit of directors, officers, employees or consultants of such Person or by any such plan to such directors, officers, employees or consultants, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by such Person upon the death, disability, retirement or termination of employment or service of such director, officer, employee or consultant.

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

“*Domestic Subsidiary*” means any Subsidiary that is organized under the laws of the United States, any state thereof or the District of Columbia.

“*Early Opt-in Effective Date*” means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

“*Early Opt-in Election*” means the occurrence of:

(a) a notification by the Administrative Agent to (or the request by the Administrative Borrower to the Administrative Agent to notify) each of the other parties hereto that at least ten (10) currently outstanding Dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review), and

(b) the joint election by the Administrative Agent and the Administrative Borrower to trigger a fallback from LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.

“*Economic Sanctions Laws*” means (a) the Executive Order, the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.), the Trading with the Enemy Act (50 U.S.C. App. §§ 1 et seq.), any other law or regulation promulgated thereunder from time to time and administered by OFAC and any similar law enacted in the United States after the date of this Agreement and (b) any other similar applicable law now or hereafter enacted in any other applicable jurisdiction, including, without limitation, the *Special Economic Measures Act* (Canada), the *United Nations Act* (Canada), the *Freezing Assets of Corrupt Foreign Officials Act* (Canada), Part II.1 of the *Criminal Code* (Canada), and the *Export and Import Permits Act* (Canada), and any regulations thereunder.

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

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

“*EEA Obligor*” means an Obligor which is incorporated or established in, or under the laws of, an EEA Member Country.

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

“*EMA*” means the European Medicines Agency and any successor thereto.

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

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

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

“*ERISA Affiliate*” means, collectively, any Obligor, Subsidiary thereof, and any Person treated as a single employer, with any Obligor or Subsidiary thereof, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

“*ERISA Event*” means (a) a reportable event as defined in Section 4043 of ERISA with respect to a Title IV Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within thirty (30) days of the occurrence of such event; (b) the applicability of the requirements of Section 4043(b) of ERISA with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, to any Title IV Plan where an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such plan within the following thirty (30) days; (c) a withdrawal by any Obligor or any ERISA Affiliate thereof from a Title IV Plan or the termination of any Title IV Plan resulting in liability under Sections 4063 or 4064 of ERISA; (d) the withdrawal of any Obligor or any ERISA Affiliate thereof in a complete or partial withdrawal (within the meaning of Section 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefore, or the receipt by any Obligor or any ERISA Affiliate thereof of notice from any Multiemployer Plan that it is insolvent or in critical status pursuant to Section 4241 or 4245 of ERISA; (e) the filing of a notice of intent to terminate, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Title IV Plan or Multiemployer Plan; (f) the imposition of liability on any Obligor or any ERISA Affiliate thereof pursuant to Sections 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) the failure by any Obligor or any ERISA Affiliate thereof to make any required contribution to a Title IV Plan, or the failure to meet the minimum funding standard of Section 412 of the Code with respect to any Title IV Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure to make by its due date a required installment under Section 430 of the Code with respect to any Title IV Plan or the failure to make any required contribution to a Multiemployer Plan; (h) the determination that any Title IV Plan is considered an at-risk plan or a plan in endangered to critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (i) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan; (j) the imposition of any liability under Title I or Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Obligor or any ERISA Affiliate thereof; (k) an application for a funding waiver under Section 303 of ERISA or an extension of any amortization period pursuant to Section 412 of the Code with respect to any Title IV Plan; (l) the occurrence of a non-exempt prohibited transaction under Sections 406 or 407 of ERISA for which any Obligor or any Subsidiary thereof may be directly or indirectly liable which may give rise to the imposition of fines or penalties thereon; (m) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Code with respect to any Plan by any fiduciary or disqualified person for which any Obligor or any ERISA Affiliate thereof would be directly or indirectly liable; (n) the occurrence of an act or omission which gives rise to the imposition on any Obligor or any ERISA Affiliate thereof of fines, penalties, Taxes or related charges under Chapter 43 of the Code or under Sections 409, 502(c), (i) or (1) or 4071 of ERISA; (o) the assertion of a material claim (other than routine Claims for benefits) against any Plan or the assets thereof, or against any Obligor or any Subsidiary thereof in connection with any such plan; (p) receipt from the IRS of notice of the failure of any Qualified Plan to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Qualified Plan to fail to qualify for exemption from taxation under Section 501(a) of the Code; (q) the imposition of any Lien (or

the fulfillment of the conditions for the imposition of any Lien) on any of the rights, properties or assets of any Obligor or any ERISA Affiliate thereof, in either case pursuant to Title I or IV, including Section 302(f) or 303(k) of ERISA or to Section 401(a)(29) or 430(k) of the Code; or (r) the establishment or amendment by any Obligor or any Subsidiary thereof of any “welfare plan,” as such term is defined in Section 3(1) of ERISA, that provides post-employment welfare benefits in a manner that would increase the liability of any Obligor, other than those benefits required under the Consolidated Omnibus Budget Reconciliation Act.

“*ERISA Funding Rules*” means the rules regarding minimum required contributions (including any installment payment thereof) to Title IV Plans, as set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

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

“*EU Insolvency Regulation*” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

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

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

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

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

“*Excluded Accounts*” means (a) Deposit Accounts exclusively used for payroll, payroll Taxes and other employee wage and benefit payments to or for the benefit of the employees of the Obligors, (b) Deposit Accounts with aggregate balances of \$250,000 or less at any time and (c) Deposit Accounts that are Segregated Health Care Accounts.

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

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

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

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

“*FCA*” has the meaning set forth in Section 3.02(b)(i).

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

“*FDA*” means the United States Food and Drug Administration and any successor entity.

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

“*Federal Health Care Program*” means (i) a “Federal Health Care Program” as defined in Section 1128B(f) of the Social Security Act, and includes the programs commonly known as Medicare, Medicaid, TRICARE and CHAMPVA; and (ii) a health care plan pursuant to the provincial plans under the *Canada Health Act*.

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

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

“*Flash Financial Report*” means a financial report prepared by management based on the Obligor’s books and records, prepared without the review necessary to make all adjustments necessary for presentation of the financial statements to be delivered with the Officer’s Certificate to be delivered pursuant to Section 8.01(b)(i) or the Audit Report to be delivered pursuant to Section 8.01(c).

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

“*Foreign Subsidiary*” means any Subsidiary that is not a Domestic Subsidiary.

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

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

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

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

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

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

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

“*Guarantor*” means (a) initially, Parent and each Subsidiary of Parent listed as a *Guarantor* on the signature pages hereto and (b) any other Subsidiary of Parent joined as a *Guarantor* from time to time pursuant to Section 8.11.

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

“*Health Canada*” means Health Canada, including all of the respective divisions, departments, bureaus, directorates, and agencies thereof (including, without limitation, the Medical Services Bureau and the Therapeutic Products Directorate), and any successors thereto.

“*Health Canada Laws*” means all applicable statutes, rules, regulations and orders administered or issued by Health Canada, including without limitation, the *Food and Drugs Act* (Canada) and the regulations thereunder (including, without limitation, the Medical Devices Regulations thereunder).

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

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

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

“*HPRA*” means the Health Products Regulatory Authority of Ireland and any successor thereto.

“*IBA*” has the meaning set forth in Section 3.02(b)(i).

“*IDE*” means an application, including an application filed with any Regulatory Authority, for authorization to commence human clinical studies with respect to any Device, including (a) an Investigational Device Exemption as defined in the FD&C Act or any successor application or procedure filed with the FDA, (b) an abbreviated Investigational Device Exemption as specified in FDA regulations in 21 C.F.R. § 812.2(b), (c) any equivalent of any of the foregoing pursuant to or under any non-United States country or regulatory jurisdiction, (d) all amendments, variations, extensions and renewals of any of the foregoing that may be filed with respect thereto, and (e) all documents and correspondence with Institutional Review Boards, whether United States or non-United States, or equivalent.

“*IFRS*” means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements delivered under or referred to herein. Subject to Section 1.02, all references to “*IFRS*” shall be to IFRS applied consistently with the principles used in the preparation of the financial statements described in Section 7.04(a).

“*Immaterial Foreign Subsidiary*” means, as of any date, any Foreign Subsidiary for which (a) the consolidated total assets of such Foreign Subsidiary and its Subsidiaries is not in excess of 5.0% of the consolidated total assets of Parent and its Subsidiaries, (b) the aggregate amount of the Net Revenue of such Foreign Subsidiary and its Subsidiaries on a consolidated basis is not in excess of 5.0% of Net Revenue of Parent and its Subsidiaries, (c) the consolidated total assets of such Foreign Subsidiary and its Subsidiaries, when taken together with the consolidated total assets of all other Immaterial Foreign Subsidiaries and their Subsidiaries, is not in excess of 10.0% of the consolidated total assets of Parent and its Subsidiaries and (d) the aggregate amount of the Net Revenue of such Foreign Subsidiary and its Subsidiaries on a consolidated basis, when taken together with the contribution to Net Revenue of all other Immaterial Foreign Subsidiaries and their Subsidiaries on a consolidated basis, is not in excess of 10.0% of Net Revenue of Parent and its Subsidiaries in each case as of the last day of any four quarter period; *provided* that notwithstanding the foregoing, at no time shall any Guarantor existing on the Closing Date or joined hereto pursuant to Section 8.11 subsequently be deemed an Immaterial Foreign Subsidiary; *provided further*, that as of the Closing Date, the Brazilian Subsidiary, Swedish Subsidiaries, Cayman Subsidiary and U.K. Subsidiary are Immaterial Foreign Subsidiaries; *provided further*, that the Luxembourg Subsidiary is not an Immaterial Foreign Subsidiary.

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

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

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

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

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

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

“Insolvency Proceeding” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, examinership (in the case of an Irish Obligor, or an Obligor with a COMI in Ireland), insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other similar arrangement in respect of any Person’s creditors generally or any substantial portion of such Person’s creditors, in each case undertaken under any of United States federal, state or foreign law, or the laws of any other jurisdiction applicable to the Obligors, including, without limitation, the Bankruptcy Code or any Canadian Bankruptcy Legislation.

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

- (a) applications, registrations, amendments and extensions relating to such Intellectual Property;
 - (b) rights and privileges arising under any applicable Laws with respect to any Intellectual Property;
 - (c) rights to sue for or collect any damages from any past, present or future infringements of any Intellectual Property;
- and
- (d) rights under Product Agreements related to such Intellectual Property.

“*Intercompany Subordination Agreement*” means that certain Intercompany Subordination Agreement, to be dated as of the Funding Date, among the Obligators, the Immaterial Foreign Subsidiaries and the Administrative Agent.

“*Interest Period*” means, (a) initially, the period beginning on (and including) the Funding Date and ending on (and including) the last day of the calendar month in which the Funding Date occurs, and (b) thereafter, the period beginning on (and including) the first day of each succeeding calendar month and ending on the earlier of (and including) (i) the last day of such calendar month and (ii) the Maturity Date.

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

“*Investment*” means, for any Person: (a) the acquisition (whether for cash, Property, services or securities or otherwise) of Equity Interests, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any “short sale” or any sale of any securities at a time when such securities are not owned by the Person entering into such sale); (b) the making of any deposit with, or advance, loan, assumption of debt, other extension of credit to, any other Person (including the purchase of Property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such Property to such Person), but excluding any such advance, loan or extension of credit in the nature of an ordinary course trade receivable having a term not exceeding one hundred twenty (120) days arising in connection with the sale of services, inventory or supplies by such Person in the Ordinary Course of Business; (c) the entering into of any Guarantee of, or other contingent obligation with respect to, Indebtedness or other liability of any other Person and (without duplication) any amount committed to be advanced, lent or extended to such Person; (d) the entering into any joint venture; or (e) the entering into of any Hedging Agreement. The amount of an Investment will be determined at the time the Investment is made without giving effect to any subsequent changes in value.

“*Ireland*” means Ireland, excluding Northern Ireland (and “*Irish*” shall be construed accordingly).

“*Irish Anti-Corruption Laws*” means the Criminal Justice (Corruption Offences) Act 2018 of Ireland.

“*Irish Anti-Terrorism Laws*” means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010.

“*Irish Debenture*” means the Irish law debenture, to be dated as of the Funding Date, in substantially the form of Exhibit G-3, among the Irish Obligors, the Lenders and the Administrative Agent, granting a security interest in the personal Property constituting Collateral thereunder in favor of the Administrative Agent for the benefit of the Lenders.

“*Irish Economic Sanctions Laws*” means the Financial Transfers Act 1992 and all Irish laws and regulations which implement EU and UN trade and/or financial sanctions.

“*Irish Obligor*” means an Obligor incorporated or organized under the laws of Ireland.

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

“*Judgment Currency*” has the meaning set forth in Section 13.20.

“*Judgment Currency Conversion Date*” has the meaning set forth in Section 13.20.

“*Key Employee*” means an employee engaged in product development or another function with access to significant Obligor Intellectual Property.

“*Key Person*” means Ronan O’Caoimh or such other person as may be appointed by the Board as his respective replacement pursuant to the definition of “Key Person Event.”

“*Key Person Event*” means the Key Person (a) ceases to hold the office of chief executive officer (or equivalent) of Parent or fails to be directly and actively involved in the day to day management and direction of the Obligors and a successor reasonably acceptable to the Administrative Agent shall not have been appointed by the Board within ninety (90) days of such cessation or (b) becomes executive chairman or executive officer directly and actively involved in the day to day management and direction of any entity other than the Obligors and such affiliation materially and adversely affects the amount of time the Key Person devotes to the business of the Obligors.

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

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

“*LIBOR*” means, for any Interest Period, the rate per annum (rounded upwards if necessary, to the next 1/100%) equal to the London interbank offered rate for one-month deposits in Dollars appearing on the appropriate Bloomberg screen or the Dow Jones Markets Telerate Page 3750 as of 11:00 a.m. (London time) two (2) Business Days prior to the commencement of any Interest Period; *provided* that in the event that such rate does not appear on the appropriate Bloomberg screen or the Dow Jones Markets Telerate Page 3750 (or otherwise on the Dow Jones Markets screen) at such time, “*LIBOR*” shall be determined by reference to such other comparable publicly available service for displaying the offered rate for deposit in Dollars in the London interbank market as may be selected by the Administrative Agent; *provided, further*, that in no event shall *LIBOR* be less than 1.00%.

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

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

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

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

“*Luxembourg Subsidiary*” means Trinity Biotech Luxembourg SARL.

“*Luxembourg Subsidiary Intercompany Subordination Agreement*” means that certain Luxembourg Intercompany Subordination Agreement, to be dated as of Funding Date, among the Obligor, the Luxembourg Subsidiary and the Administrative Agent on terms and provisions satisfactory to the Administrative Agent.

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

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

“*Material Adverse Change*” and “*Material Adverse Effect*” mean a material adverse change in or effect on (a) the business, financial condition, operations, performance or Property of the Obligor taken as a whole, (b) the ability of any Obligor to perform its obligations under any Loan Document as and when they become due, (c) the value of the Property comprising Collateral (taken as a whole), or (d) the legality, validity, binding effect or enforceability of the Loan Documents or the rights and remedies of any Lender under any of the Loan Documents.

“*Material Agreement*” means (a) any Contract which is listed in Schedule 7.14, (b) any other Contract to which any Obligor is a party or a beneficiary from time to time, or to which any assets or properties of any Obligor is bound, the loss or termination of which would reasonably be expected to result in a Material Adverse Effect and (c) any other Contract to which any Obligor is a party or a guarantor (or equivalent) whether existing as of the date hereof or in the future that during any period of twelve (12) consecutive months is reasonably expected to (1) result in payments or receipts (including royalty, licensing or similar payments) made to any Obligor in an aggregate amount in excess of \$2,500,000 or (2) require payments or expenditures (including royalty, licensing or similar payments) made by any Obligor in an aggregate amount in excess of \$2,500,000; *provided* that for the avoidance of doubt routine purchase orders entered into in the Ordinary Course of Business shall not be deemed to be Material Agreements.

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

“*Material Intellectual Property*” means all Obligor Intellectual Property, including the Obligor Intellectual Property described in Schedule 7.05(b) (as such schedule shall be updated by the Obligor from time to time, pursuant to Section 8.01(d)), whether currently owned or licensed, or acquired, developed or otherwise licensed or obtained after the date hereof, (a) necessary for the operation of the business of any Obligor as currently conducted or as currently contemplated to be conducted, (b) the loss of which would reasonably be expected to have or result in a Material Adverse Effect or (c) that has a fair market value in excess of \$2,500,000 (as such fair market value is determined in the reasonable judgment of the Obligor).

“*Maturity Date*” means the earlier to occur of (a) the Stated Maturity Date, (b) to the extent that the Funding Date shall not have occurred prior to the Commitment Termination Date, the Commitment Termination Date and (c) the date on which the Term Loan is accelerated pursuant to Section 10.02.

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

“*Net Cash Proceeds*” means,

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

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

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

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

“*Non-EEA Obligor*” means an Obligor which is not an EEA Obligor.

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

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

“*Obligor Intellectual Property*” means Intellectual Property owned by or licensed to any of the Obligors.

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

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

“*Ordinary Course of Business*” means, with respect to any Person, the ordinary course of business generally consistent with the Person’s market or custom and practice (including with respect to nature, scope, magnitude, quantity and frequency).

“*Organizational Documents*” means (a) with respect to any corporation (other than a corporation organized under the laws of Canada or any province or territory thereof), its certificate of or articles of incorporation or organization, or memorandum and articles of association, as amended, or constitution, as amended, and its by-laws, as amended, (b) with respect to any corporation, company, unlimited liability company, or unlimited liability corporation organized under the laws of Canada or any province or territory thereof, its certificate of incorporation, amalgamation, or continuance, its articles of incorporation, amalgamation, or continuance, its notice of articles, its articles, and/or any shareholders’ agreement or declaration with respect to it, in each case as amended, as applicable, (c) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (d) with respect to any general partnership, its partnership agreement, as amended, and (e) with respect to any limited liability company, its certificate of formation or articles of organization, as amended, or its constitution, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar government official, the reference to any such “Organizational Document” shall only be to a document of a type customarily certified by such government official.

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

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

“*Outstanding Convertible Notes*” means those Convertible Notes that remain outstanding after the Funding Date in an aggregate principal amount not to exceed \$275,000 plus accrued and unpaid interest.

“*Parent*” means Trinity Biotech plc, a company organized under the laws of Ireland (company registration number: 183476).

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

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

“*Patents*” means all patents and patent applications, including the inventions and improvements described and claimed therein together with the reissues, divisions, continuations, renewals, extensions and continuations in part thereof, all income, royalties, damages and payments now or hereafter due and/or payable with respect thereto, all damages and payments for past or future infringements thereof and rights to sue therefor, and all rights corresponding thereto throughout the world, in each case, relating to a Product.

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

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

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

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

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

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

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

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

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

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

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

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

"Permitted Cash Equivalent Investments" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper with an average maturity of no more than one (1) year and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (c) any money market funds or other investment vehicles whose principal investments are in investments described in clauses (a) or (b) and (d) certificates of deposit maturing no more than one (1) year after issue.

"Permitted Indebtedness" means any Indebtedness existing as of the Closing Date, excluding the Convertible Notes.

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

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

"Permitted Refinancing" means, with respect to any Indebtedness permitted to be refinanced, extended, renewed or replaced hereunder, any refinancing, extensions, renewals and replacements of such Indebtedness; *provided* that such refinancing, extension, renewal or replacement shall not (a) increase the outstanding principal amount of the Indebtedness, being refinanced, extended, renewed or replaced, (b) contain terms relating to outstanding principal amount, amortization, interest rate or equivalent yield, maturity, collateral security (if any), subordination (if any), or other material terms that, taken as a whole are less favorable in any material respect to any Obligor and its Subsidiaries or any Lender than the terms of any agreement or instrument governing the Indebtedness being refinanced, and (c) contain any new requirement to grant any Lien or to give any Guarantee that was not an existing requirement of such Indebtedness.

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

“*PFIC*” has the meaning set forth in Section 8.01(j).

“*Plan*” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrowers or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“*Pledge Agreements*” means the U.S. Pledge Agreement and the Canadian Pledge Agreement.

“*PPSA*” means the *Personal Property Security Act* (Ontario) and the regulations thereunder, as from time to time in effect; *provided, however*, that if by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the Administrative Agent and/or any Lender’s security interests in any item or portion of the Collateral are governed by the personal property security laws as in effect in any jurisdiction in Canada other than the laws of the Province of Ontario, then “*PPSA*” means those personal property security laws (including the Civil Code of Québec) as in effect in such other jurisdiction in Canada for the purposes of the provisions hereof relating thereto.

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

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

“*Product*” means (a) those Devices set forth (and described in reasonable detail) on Schedule 3 attached hereto, and (b) any current or future Device subject to any Product Development and Commercialization Activities by any Obligor, including any such Device currently in development. For the avoidance of doubt, separate stock keeping units (SKUs) by reference to package size or country of sale constitute one Product.

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

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

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

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

“Product Related Information” means, with respect to any Product, all books, records, lists, ledgers, files, manuals, Contracts, correspondence, reports, plans, drawings and data (in any form or medium), and all techniques and other know-how, owned or possessed by the Obligors that are necessary or required for any Product Development and Commercialization Activities relating to such Product, including (a) brand materials, packaging and other trade dress, customer targeting and other marketing, promotion and sales materials and information, referral, customer, supplier and other contact lists and information, product, business, marketing and sales plans, research, studies and reports, sales, maintenance and production records, training materials and other marketing, sales and promotional information, (b) clinical data, information included or supporting any Product Authorization or other Regulatory Approval, any regulatory filings, updates, notices and correspondence (including adverse event and other pharmacovigilance and other post-marketing reports and information, etc.), technical information, product development and operational data and records, and all other documents, records, files, data and other information relating to product development, manufacture and use, (c) litigation and dispute records, and accounting records, (d) all documents, records and files relating to Intellectual Property, including all correspondence from and to third parties (including Intellectual Property counsel and patent, trademark and other Intellectual Property registries, including the United States Patent and Trademark Office and the Canadian Intellectual Property Office), and (e) all other information, techniques and know-how necessary or required in connection with the Product Development and Commercialization Activities for any Product.

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

“Projections” means the Confidential - Group EBITDA TO 2025 with Bal Sheet December 2021.

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

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

“Proposal Letter” means the letter agreement, dated September 15, 2021, among Parent and Perceptive Advisors LLC, regarding the transactions contemplated hereby and the outline of proposed terms and conditions attached thereto.

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

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

“Qualified Plan” means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (a) that is or was at any time maintained or sponsored by any Obligor or any ERISA Affiliate thereof or to which any Obligor or any ERISA Affiliate thereof has ever made, or was ever obligated to make, contributions, and (b) that is intended to be Tax qualified under Section 401(a) of the Code.

“*Recipient*” means any Lender or the Administrative Agent or, in the case of the Warrant Indemnified Taxes, the Warrant Holder.

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

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

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

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

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

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

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

“*Regulatory Approvals*” means any Governmental Approval relating to any Product or any Product Development and Commercialization Activities related to such Product, including any Product Authorizations with respect thereto.

“*Regulatory Authority*” means any Governmental Authority that is concerned with or has regulatory or supervisory oversight with respect to any Product or any Product Development and Commercialization Activities relating to any Product, including the FDA, EMA, HPRA, Health Canada, ANVISA, and all equivalent Governmental Authorities, whether United States or non-United States.

“*Relevant ADSs*” has the meaning set forth in Section 8.21.

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

“*Relevant Warrant Obligations*” means the obligations under Section 8.21 (*Cashless Exercise of Warrant Certificate and Par Value*) and Article 11 (*Guarantee*) to the extent such obligations relate, directly or indirectly, to the Warrant Certificate.

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

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

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

“*Responsible Officer*” of any Person means each of the president, chief executive officer, chief financial officer or titles equivalent to the foregoing.

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

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

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

“*Revenue Claim*” has the meaning set forth in Section 5.03(i).

“*Sanctions*” means economic or financial sanctions, requirements or trade embargoes imposed, administered or enforced from time to time by Governmental Authorities (including, but not limited to, OFAC, the United States Department of State, the United States Department of Commerce, and the government of Canada and respective departments and agencies thereof, including Foreign Affairs, Trade and Development Canada, and Public Safety Canada).

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

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

“*Securities Account*” has the meaning set forth in the U.C.C. and the PPSA, as applicable.

“*Security Agreements*” means the U.S. Security Agreement, the Canadian Security Agreement and the Irish Debenture.

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

“*Segregated Health Care Account*” means, a Deposit Account of an Obligor in the name of such Obligor and under the sole dominion and control of such Obligor maintained in accordance with the requirements of Section 8.18(c) hereof, the only funds on deposit in which constitute the direct proceeds of payments made by Federal Health Care Programs.

“*Shareholder Approval*” means the approvals to be sought from the Parent’s shareholders after the date of this Agreement including: (a) those approvals contemplated by Sections 1021(1) and 1023(3) of the Companies Act 2014 of Ireland (as amended) for the purposes of: (i) the issuance of the Warrant Certificate and the shares in the capital of the Parent to be issued pursuant to an exercise thereof; (ii) the issuance of shares in the capital of the Parent to the existing holders of the Convertible Notes pursuant to the Convertible Notes Funding Actions; and (iii) the issuance of shares in the capital of the Parent for the purposes of financing the working capital requirements of the Parent and the general corporate needs of the Parent, (b) the approval of an increase in the Parent’s authorized share capital and (c) an approval of the kind contemplated in article 99.2 of the articles of association of the Parent.

“*Short-Form IP Security Agreements*” means short-form Copyright, Patent or Trademark (as the case may be) security agreements, to be dated as of the Funding Date, in substantially the form of Exhibits H-1 and H-2, entered into by one or more Obligors in favor of the Administrative Agent for the benefit of the Lenders, each in form and substance satisfactory to the Administrative Agent.

“*SOFR*” means a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org> (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate from time to time).

“*Solvent*” means, with respect to any Person at any time, that (a) the present fair saleable value of the Property of such Person is greater than the total amount of liabilities (including contingent liabilities) of such Person, (b) the present fair saleable value of the Property of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, and (c) such Person: (i) (where such is not an Irish Obligor) has not incurred and does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature; and (ii) (where such Person is an Irish Obligor) is not “unable to pay its debts” (within the meaning of Section 570 of the Companies Act 2014 of Ireland (as amended)).

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

“*State*” means any state or territory of the United States.

“*Stated Maturity Date*” means the fourth (4th) anniversary of the Funding Date; *provided* that if any such date shall occur on a day that is not a Business Day, then the Stated Maturity Date shall be the immediately succeeding Business Day.

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

“*Swedish Subsidiaries*” means Fiom Diagnostics Holding AB and Fiom Diagnostics AB.

“*Sweep Agreement*” means an agreement, in form and substance reasonably satisfactory to Agent, between the Obligor maintaining a Segregated Health Care Account, Administrative Agent and applicable bank or other financial institution at which such Segregated Health Care Account is maintained, pursuant to which such bank or financial institution (i) agrees to automatically sweep amounts deposited in such Segregated Health Care Account to another account of an Obligor subject to a tri-party account control agreement in favor of Administrative Agent satisfying the requirements set forth in Section 8.18(c) hereof, as and when funds clear and become available in accordance with such bank’s or financial institution’s standard practices and procedures, and (ii) agrees not to change such standing sweep instructions until the date at least five (5) days (or such lesser period as Administrative Agent may agree in its sole discretion or as may be required by applicable Federal Health Care Program laws or policies after receipt of notice from such Obligor maintaining such Segregated Health Care Account by Administrative Agent and such bank or financial institution of the termination of such standing sweep instruction).

“*Taxes*” means all present or future taxes, levies, imposts, duties, (including stamp duties), deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

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

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

“*Term SOFR*” means, for the applicable corresponding tenor, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“*Title IV Plan*” means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (a) that is or was at any time during the six year period ending on the Funding Date maintained or sponsored by any Obligor or any ERISA Affiliate thereof or to which any Obligor or any ERISA Affiliate thereof has ever made, or was obligated to make, contributions, and (b) that is or was subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA.

“*Trademarks*” means all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations, including all renewals of trademark and service mark registrations, all rights to recover for all past, present and future infringements thereof and all rights to sue therefor, and all rights corresponding thereto throughout the world, together, in each case, with the product lines and goodwill of the business connected with the use thereof (excluding any application for registration of a trademark filed on an intent to use basis solely to the extent that the grant of a security interest in any such trademark application would materially adversely affect the validity or enforceability of the resulting trademark registration or result in cancellation of such trademark application).

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

“*U.C.C.*” means the Uniform Commercial Code as in effect in the State of New York; *provided, however*, that if by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of the Administrative Agent’s security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “*U.C.C.*” means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions relating to such provisions.

“*U.K. Financial Institution*” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

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

“*U.K. Subsidiary*” means Trinity Biotech (UK) Limited.

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

“*U.S.*” means the United States of America.

“*U.S. Biopool*” has the meaning set forth in the introduction hereto.

“*U.S. Clark*” has the meaning set forth in the introduction hereto.

“*U.S. Fitzgerald*” has the meaning set forth in the introduction hereto.

“*U.S. Holdings*” has the meaning set forth in the introduction hereto.

“*U.S. MarDx*” has the meaning set forth in the introduction hereto.

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

“*U.S. Primus*” has the meaning set forth in the introduction hereto.

“*U.S. Pledge Agreement*” means the U.S. Pledge Agreement, to be dated as of the Funding Date, among Parent, the Lenders and the Administrative Agent, pledging 100% of the Equity Interests in U.S. Holdings in favor of the Administrative Agent for the benefit of the Lenders.

“*U.S. Security Agreement*” means the U.S. Security Agreement, to be dated as of the Funding Date, in substantially the form of Exhibit G-1 among the Borrowers, the Lenders and the Administrative Agent, granting a security interest in the personal Property constituting Collateral thereunder in favor of the Administrative Agent for the benefit of the Lenders.

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

“*Warrant Certificate*” means the warrant, in substantially the form of Exhibit J, to be delivered to the Administrative Agent pursuant to Section 6.02(c)(ii) that, among other things, grants the holder thereof the right to purchase the number of American Depositary Shares (represented by American Depositary Receipts) of Parent as indicated on the Warrant Shares table on Schedule 1, as the Warrant Certificate may be amended, replaced or otherwise modified pursuant to the terms thereof.

“*Warrant Indemnified Taxes*” means any Indemnified Taxes payable or paid by the Warrant Holder or required to be withheld or deducted from a payment to Warrant Holder and/or any reasonable costs and expenses arising therefrom or with respect thereto (including, but not limited to, any costs arising from a dispute with the relevant Government Authority in respect of such Indemnified Taxes) in each case to the extent it relates to the grant of the Warrant Certificate to the Warrant Holder and/or the exercise of the Warrant Certificate by a Warrant Holder and/or the issue of the American Depositary Receipts and/or American Depositary Shares to any Warrant Holder in accordance with the Warrant Certificate.

“*Warrant Holder*” means the person or entity to whom the Warrant Certificate is issued, or any transferee or assignee thereof (to the extent such transfer is permitted by the Warrant Certificate).

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

“*Warrant Stamp Amount*” means an amount denominated in EUR (€) credited to the client account of Irish counsel to the Administrative Agent on the date of execution of the Warrant Certificate by any one or more of the Non-EEA Obligors out of its (or their) existing cash resources (being cash other than cash borrowed pursuant to the terms of this Agreement), which amount (the source of which shall not require verification, assessment or confirmation by or from the Administrative Agent) shall be sufficient to discharge the Irish stamp duty liability due on execution of the Warrant Certificate (as such liability is agreed between the Administrative Agent and the Administrative Borrower on such date).

“WHO” means the World Health Organization and any successor thereto.

“Withdrawal Liability” means, at any time, any liability incurred (whether or not assessed) by any ERISA Affiliate and not yet satisfied or paid in full at such time with respect to any Multiemployer Plan pursuant to Section 4201 of ERISA.

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

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

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

Section 1.03. Interpretation. For all purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires, (a) the terms defined in this Agreement include the plural as well as the singular and vice versa; (b) words importing gender include all genders; (c) any reference to a Section, Article, Annex, Schedule or Exhibit refers to a Section or Article of, or Annex, Schedule or Exhibit to, this Agreement; (d) any reference to “this Agreement” refers to this Agreement, including all Annexes, Schedules and Exhibits hereto, and the words herein, hereof, hereto and hereunder and words of similar import refer to this Agreement and its Annexes, Schedules and Exhibits as a whole and not to any particular Section, Article, Annex, Schedule, Exhibit or any other subdivision; (e) references to days, months and years refer to calendar days, months and years, respectively; (f) all references herein to “include” or “including” shall be deemed to be followed by the words “without limitation”; (g) the word “from” when used in connection with a period of time means “from and including” and the word “until” means “to but not including”; and (h) accounting terms not specifically defined herein shall be construed substantially in accordance with IFRS (except for the term “property,” which shall be interpreted as broadly as possible, including, in any case, cash, securities, other assets, rights under contractual obligations and Permits and any right or interest in any property, except where otherwise noted). Unless otherwise expressly provided herein, references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto permitted by the Loan Documents.

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

ARTICLE 2

THE COMMITMENTS

Section 2.01. Term Loan.

(a) *Term Loan.*

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

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

(iii) Subject to the terms and conditions of this Agreement (including Section 6.02), the Administrative Borrower shall deliver to the Administrative Agent a fully executed Borrowing Notice no later than 5 p.m. (New York City time) at least one (1) Business Day in advance of the Funding Date.

(b) Any principal amount of the Term Loan borrowed under Section 2.01(a) hereof and subsequently repaid or prepaid may not be reborrowed.

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

Section 2.03. Fees.

(a) On the Closing Date, the Borrowers shall pay to the Administrative Agent, in accordance with the provisions of the Fee Letter and for distribution to each Lender in accordance with its Pro Rata Share of the Term Loan, the Closing Fee. Such payments shall be in addition to such fees, costs and expenses due and payable pursuant to Section 13.03.

(b) On the Funding Date, the Borrowers shall pay to the Administrative Agent (out of the proceeds of the Term Loan advanced by the Lenders on the Funding Date), in accordance with the provisions of the Fee Letter and for distribution to each Lender in accordance with its Pro Rata Share of the Term Loan, the Funding Fee. Such payments shall be in addition to such fees, costs and expenses due and payable pursuant to Section 13.03.

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

Section 2.05. Use of Proceeds. The Borrowers shall use the proceeds of the Term Loan:

- (a) for general corporate purposes permitted hereunder,
- (b) to refinance Convertible Notes outstanding as of the Funding Date, and
- (c) to pay, in accordance with the funds flow attached to the Borrowing Notice, fees, costs and expenses incurred in connection with the Transactions.

ARTICLE 3

PAYMENTS OF PRINCIPAL AND INTEREST

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

Section 3.02. Interest.

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

(b) Benchmark Replacement.

(i) *Replacing LIBOR.* On March 5, 2021, the Financial Conduct Authority (“FCA”), the regulatory supervisor of LIBOR’s administrator (“IBA”), announced in a public statement the future cessation or loss of representativeness of 1-month LIBOR tenor settings. On the earlier of (A) the date that all Available Tenors of LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (B) the Early Opt-in Effective Date, if the then-current Benchmark is LIBOR, the Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action or consent of any other party to this Agreement or any other Loan Document. If the foregoing has occurred and a Benchmark Replacement has not been agreed upon between the Administrative Agent and the Administrative Borrower, the Term Loan shall bear interest at LIBOR as of the end of the then immediately preceding Interest Period, until such time as a Benchmark Replacement has been determined, plus the Applicable Margin.

(ii) *Replacing Future Benchmarks.* Upon the occurrence of a Benchmark Transition Event, the Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

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

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

(v) *Unavailability of Tenor of Benchmark.* At any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for Benchmark (including Benchmark Replacement) settings and (B) the Administrative Agent may reinstate any such previously removed tenor for Benchmark (including Benchmark Replacement) settings.

(c) *Default Interest.* Notwithstanding the foregoing, upon the occurrence and during the continuance of any Event of Default, the Applicable Margin shall increase automatically by 3.00% per annum (the interest rate, as increased pursuant to this Section 3.02(c), being the, the “*Default Rate*”). Notwithstanding any other provision herein, if interest is required to be paid at the Default Rate, it shall also be paid entirely in cash. If any Obligation is not paid when due (giving effect to any applicable grace period) under the applicable Loan Document, the amount thereof shall accrue interest at a rate equal to 3.00% per annum (without duplication of interest payable at the Default Rate). Payment or acceptance of the increased rates of interest provided for in this Section 3.02(c) is not a permitted alternative to timely payment and shall not constitute a waiver of any Default or otherwise prejudice or limit any rights or remedies of the Administrative Agent or any Lender.

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

(e) *Maximum Rate; Interest at a Criminal Rate.* Notwithstanding any other provision of this Agreement, in no event will any interest or rates referred to herein exceed the maximum interest rate permitted by applicable Law. If such maximum interest rate would be exceeded by the terms hereof, the rates of interest payable hereunder will be reduced to the extent necessary so that such rates (together with any fees or other amounts which are construed by a court of competent jurisdiction to be interest or in the nature of interest) equal the maximum interest rate permitted by applicable Law and any overpayment of interest received by the Lenders before such rates are so construed will be applied, forthwith after determination of such overpayment, to pay all then outstanding interest, and thereafter to pay outstanding principal. Without limiting the generality of the foregoing, in the event that any provision of this Agreement or any other Loan Document would oblige any Obligor to make any payment of interest or any other payment which is construed by a court of competent jurisdiction to be interest in an amount or calculated at a rate which would result in a receipt by any of the Administrative Agent or any Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)), then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted *nunc pro tunc* to the maximum amount or rate of interest, as the case may be, as would not so result in a receipt by the Lender of interest at a criminal rate, such adjustment to be effected, to the extent necessary as follows:

(i) first, by reducing the amount or rate of interest required to be paid under this Agreement or such other Loan Document; and

(ii) thereafter, by reducing any fees, commissions, premiums or other amounts required to be paid which would constitute interest for the purposes of Section 347 of the *Criminal Code* (Canada).

If, notwithstanding the provisions immediately above and after giving effect to all adjustments contemplated thereby, any of the Administrative Agent or any Lender shall have received an amount in excess of the maximum permitted by Law, then such excess shall be applied to the reduction of the balance of outstanding principal and not to the payment of interest, or if such excessive interest exceeds such principal balance, such excess shall be refunded to the Obligor, as applicable.

(f) *Interest Act (Canada)*. For the purposes of the *Interest Act (Canada)* and disclosure under such Act only:

(i) wherever interest to be paid under this Agreement is to be calculated on the basis of any period of time that is less than a calendar year (a "*deemed year*"), such rate of interest shall be expressed as a yearly rate by multiplying such rate of interest for the deemed year by the actual number of days in the calendar year in which the rate is to be ascertained and dividing it by the number of days in the deemed year; and

(ii) each Obligor confirms that it fully understands and is able to calculate the rate of interest applicable to each of the credit facilities made available hereunder based on the methodology for calculating per annum rates provided for in this Agreement. The Administrative Agent agrees that, if requested in writing by the Administrative Borrower, it shall calculate the nominal and effective per annum rate of interest on any advance outstanding hereunder at any time and provide such information to the Administrative Borrower promptly following such request; *provided* that any error in any such calculation, or any failure to provide such information on request, shall not relieve any Obligor of any of its obligations under this Agreement or any other Loan Document, nor result in any liability to the Administrative Agent. Each Obligor hereby irrevocably agrees not to plead or assert, whether by way of defense or otherwise, in any proceeding relating to the Loan Documents, that the interest payable under the Loan Documents and the calculation thereof has not been adequately disclosed to the Obligors, whether pursuant to Section 4 of the *Interest Act (Canada)* or any other applicable law or legal principle.

Section 3.03. Prepayments.

(a) *Optional Prepayments.*

(i) The Borrowers shall have the right to optionally prepay in whole or in part (in a minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount for each partial prepayment, or, if less, the entire outstanding principal amount of the Term Loan) the outstanding principal amount of the Term Loan on any Business Day (a "*Redemption Date*") for an amount equal to the sum of (x) the aggregate principal amount of the Term Loan being prepaid, (y) the applicable Prepayment Premium in respect of the aggregate principal amount of the Term Loan being prepaid and (z) any accrued but unpaid interest in respect of the aggregate principal amount of the Term Loan being prepaid (such aggregate amount, the "*Redemption Price*"). The applicable "*Prepayment Premium*" shall be an amount calculated pursuant to Section 3.03(a)(ii).

(ii) If the Redemption Date occurs:

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

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

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

(D) after the third anniversary of the Funding Date and prior to the Stated Maturity Date, the Prepayment Premium shall be an amount equal to seven percent (7%) of the aggregate outstanding principal amount of the Term Loan being prepaid on such Redemption Date.

(b) *Mandatory Prepayments.* The Borrowers shall prepay the Term Loan in amounts as provided below, it being agreed that the relevant payment date shall be deemed to be the "Redemption Date" for purposes of such calculation), as follows:

(i) In the event of any Casualty Event, an amount, inclusive of any Prepayment Premium, any accrued but unpaid interest (including interest on the amount of the principal being prepaid) and fees then due and owing, equal to 100% of the Net Cash Proceeds received by any Obligor or any of its Subsidiaries with respect thereto; *provided, however,* so long as no Default or Event of Default has occurred and is continuing, within one hundred eighty (180) days after receipt of such Net Cash Proceeds, the Obligors may apply the Net Cash Proceeds of any casualty policy up to, but not exceeding \$4,000,000 for all losses in the aggregate during the term of this Agreement toward the replacement or repair of destroyed or damaged property; *provided, further,* that any such replaced or repaired property shall be Collateral in which the Administrative Agent for the benefit of the Lenders has been granted a security interest under the Security Documents.

(ii) In the event any Obligor or any of its Subsidiaries incurs Indebtedness other than Indebtedness that is permitted by Section 9.01 hereof, an amount, inclusive of any Prepayment Premium, any accrued but unpaid interest (including interest on the amount of the principal being prepaid) and fees then due and owing, equal to 100% of the Net Cash Proceeds thereof received by such Person. For the avoidance of doubt, any prepayment made pursuant to this Section 3.03(b)(ii) shall not be deemed to be a consent to any such incurrence of Indebtedness or a cure or waiver of any Event of Default which occurs in connection therewith, it being understood that any such Event of Default may only be waived with the express consent of the Majority Lenders.

(iii) In the event any Obligor or any of its Subsidiaries consummates an Asset Sale other than an Asset Sale that is permitted by Section 9.09 hereof (other than Section 9.09(j)), an amount, inclusive of any Prepayment Premium any accrued but unpaid interest (including interest on the amount of the principal being prepaid) and fees then due and owing, equal to 100% of the Net Cash Proceeds received by such Obligor in connection with such Asset Sale; *provided, however*, so long as no Default or Event of Default has occurred and is continuing, within one hundred eighty (180) days after receipt of such Net Cash Proceeds (or if committed to be reinvested within such 180-day period, no later than ninety (90) days after the end of such 180-day period), the Obligors may use such Net Cash Proceeds up to \$500,000 with respect to any Asset Sale, but not exceeding \$1,000,000 for all Asset Sales in the aggregate per fiscal year, to purchase, replace, repair or restore properties or assets used in the Obligors' businesses; *provided, further*, that any such purchased, replaced, repaired or restored property shall be Collateral in which the Administrative Agent for the benefit of the Lenders has been granted a security interest under the Security Documents. For the avoidance of doubt, any prepayment made pursuant to this Section 3.03(b)(iii) shall not be deemed to be a consent to any Asset Sale or a cure or waiver of any Event of Default which occurs in connection therewith, it being understood that any such Event of Default may only be waived with the express consent of the Majority Lenders.

(c) *Prepayment Premium.* Payment of any Prepayment Premium under this Section 3.03 constitutes liquidated damages, not unmatured interest or a penalty, as the actual amount of damages to the Lenders as a result of the relevant triggering event, prepayment or repayment would be impracticable and extremely difficult to ascertain. Accordingly, any Prepayment Premium hereunder is provided by mutual agreement of the Obligors and the Lenders as a reasonable estimation and calculation of such actual lost profits and other actual damages of the Lenders. Without limiting the generality of the foregoing, it is understood and agreed that upon the occurrence of any prepayment event, any Prepayment Premium shall be automatically and immediately due and payable as though any prepaid or repaid portion of the Term Loan was voluntarily prepaid as of such date and shall constitute part of the Obligations secured by the Collateral. Any Prepayment Premium shall also be automatically and immediately due and payable if the Term Loan is satisfied or released by foreclosure (whether by power of judicial proceeding or otherwise), deed in lieu of foreclosure or by any other means. EACH OBLIGOR HEREBY EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR OTHER LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH EVENTS. The Obligors expressly agree (to the fullest extent it and they may lawfully do so) that with respect to any Prepayment Premium payable under the terms of this Agreement: (i) such Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business parties, ably represented by counsel; (ii) such Prepayment Premium shall be payable notwithstanding the then-prevailing market rates at the time payment is made; (iii) there has been a course of conduct between the Lenders and the Obligors giving specific consideration in this transaction for such agreement to pay such Prepayment Premium; and (iv) the Obligors shall be estopped hereafter from claiming differently than as agreed to in this paragraph. The Obligors expressly acknowledge that their agreement to pay such Prepayment Premium as herein described is a material inducement to the Lenders to provide the Commitments and to make the Term Loan.

ARTICLE 4

PAYMENTS, ETC.

Section 4.01. Payments.

(a) *Payments Generally.* Each payment of principal, interest and other amounts to be made by the Obligors under this Agreement or any other Loan Document shall be made in Dollars, in immediately available funds, without deduction, set off or counterclaim, to an account of the Administrative Agent specified to the Administrative Borrower from time to time, not later than 2:00 p.m. (Eastern time) on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day).

(b) *Application of Payments.* Each payment under this Agreement or any other Loan Document (other than any payment made pursuant to Section 3.01, which shall be applied to the principal amount of the Term Loan and any applicable Prepayment Premium) shall be applied in the following order of priority, with proceeds being applied to a succeeding level of priority only if amounts owing pursuant to the immediately preceding level of priority have been paid in full in cash:

(i) *first*, to the payment of any unpaid costs and expenses referred to in Section 13.03(a) then due and owing;

- (ii) *second*, in reduction of the Borrowers' obligation to pay any unpaid interest and any fees then due and owing including, without limitation, (x) interest payable pursuant to Section 3.02(c) and (y) any Prepayment Premium;
- (iii) *third*, in reduction of the Borrowers' obligations to pay any Claims or Losses referred to in Section 13.03(b) then due and owing;
- (iv) *fourth*, to the payment of unpaid principal of the Term Loan on a pro rata basis;
- (v) *fifth*, in reduction of any other Obligation then due and owing; and
- (vi) *sixth*, to the Borrowers or such other Persons as may lawfully be entitled to or directed by the Borrowers to receive the remainder.

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

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

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

Section 4.03. Notices. Each notice of optional prepayment shall be effective only if received by the Lenders not later than 2:00 p.m. (Eastern time) on the date three (3) Business Days prior to the date of prepayment. Each notice of optional prepayment shall specify the amount to be prepaid and the date of prepayment.

Section 4.04. Set-Off.

(a) *Set-Off Generally*. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent, the Lenders and each of their respective Affiliates are hereby authorized at any time and from time to time, to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by the Lenders or such Affiliates to or for the credit or the account of any Obligor against any and all of the Obligations, whether or not the Lenders shall have made any demand and although such Obligations may be unmatured. The Lenders agree promptly to notify the Administrative Borrower after any such set-off and application, *provided* that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lenders and their respective Affiliates under this Section 4.04 are in addition to other rights and remedies (including other rights of set-off) that the Lenders and their respective Affiliates may have.

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

ARTICLE 5

YIELD PROTECTION, ETC.

Section 5.01 . Additional Costs.

(a) *Change in Requirements of Law Generally.* If, on or after the date hereof, the adoption of any Requirement of Law, or any change in any Requirement of Law, or any change in the interpretation or administration thereof by any court or other Governmental Authority charged with the interpretation or administration thereof, or compliance by any Lender (or its lending office) with any request or directive (whether or not having the force of law) of any such Governmental Authority, shall impose, modify or deem applicable any reserve (including any such requirement imposed by the Board of Governors of the Federal Reserve System), special deposit, contribution, insurance assessment or similar requirement, in each case that becomes effective after the date hereof, against assets of, deposits with or for the account of, or credit extended by, a Lender (or its lending office) or shall impose on a Lender (or its lending office) any other condition affecting the Term Loan or the Commitment, not as a result of any action or inaction on the part of such Lender, and the result of any of the foregoing is to increase the cost to any Lender of making or maintaining its portion of the Term Loan, or to reduce the amount of any sum received or receivable by any Lender under this Agreement or any other Loan Document, by an amount reasonably deemed by such Lender in good faith to be material (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of “*Excluded Taxes*” and (iii) Connection Income Taxes), then the Borrowers shall promptly pay to such Lender on demand such additional amount or amounts as will compensate such Lender for such increased cost or reduction. Notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to constitute a change in Requirements of Law for all purposes of this Section 5.01, regardless of the date enacted, adopted or issued.

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

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

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

Section 5.03. Taxes.

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

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

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

(d) *Indemnification.* The Borrowers shall reimburse and indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes and Warrant Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.03) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and/or any reasonable costs and expenses arising therefrom or with respect thereto (including, but not limited to, any costs arising from a dispute with the relevant Government Authority in respect of such Indemnified Taxes or Warrant Indemnified Taxes), whether or not such Indemnified Taxes (or Warrant Indemnified Taxes) were correctly or legally imposed or asserted by the relevant Governmental Authority; *provided that*, notwithstanding any other provision of this Agreement or any other Loan Document, no EEA Obligor shall be liable (whether as principal or surety or otherwise) for any Warrant Indemnified Taxes. A certificate as to the amount of such payment or liability delivered to the Administrative Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender shall be conclusive absent manifest error.

(e) *Indemnification by the Lenders.* Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrowers have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of any Borrower to do so), and (ii) any Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) *Status of Lenders.*

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

(ii) Without limiting the generality of the foregoing:

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

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

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

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

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

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

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

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

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

(g) *Treatment of Certain Refunds.* If any party to this Agreement determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.03 (including by the payment of additional amounts pursuant to this Section 5.03), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.03 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the written request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 5.03(g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.03(g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This Section 5.03(g) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

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

(i) *Revenue Challenge to Warrant Stamp Amount.* In the event of any written communication issued by the Irish Revenue Commissioners to a Recipient concerning the amount of Irish stamp duty liability due on the execution of the Warrant Certificate (a “*Revenue Claim*”), the Recipients shall (if the total amount of stamp duty due on the Warrant Certificate is likely to exceed \$50,000):

(i) promptly provide a copy of such written communication from the Irish Revenue Commissioners to the Parent;

(ii) if requested by the Parent, provide to the Parent (at the Parent’s expense) copies of any material correspondence to and from the Irish Revenue Commissioners relating to the Revenue Claim (subject to legal professional privilege and any obligations of confidence that are binding on the Recipients);

(iii) keep the Parent reasonably informed of the progress of the Revenue Claim and of any material developments in relation to the Revenue Claim; and

(iv) use reasonable endeavors to consult with the Obligors regarding the conduct of the Revenue Claim.

If the total amount of stamp duty due on the Warrant Certificate would exceed \$50,000, no Recipient shall agree any compromise or settlement, or make any payment in relation to, a Revenue Claim without the prior written consent of the Obligors. Notwithstanding any other provision of this Agreement, any failure by a Recipient to comply with its obligations under this Section 5.03(i) shall reduce the amount of any claim under Section 5.03(d) with respect to a Revenue Claim to the extent that such failure to comply increased or gave rise to the Taxes to which such claim relates.

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

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

ARTICLE 6

CONDITIONS PRECEDENT

Section 6.01. Conditions to Closing Date. The obligation of each Lender to enter into the Credit Agreement on the Closing Date shall not become effective until the following conditions precedent shall have been reasonably satisfied or waived in writing by the Administrative Agent:

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

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

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

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

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

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

(ii) *Collateral Questionnaire.* The Collateral Questionnaire, duly executed and delivered by a Responsible Officer of the Obligors, substantially in the form of Exhibit I hereto and otherwise in form and substance satisfactory to the Administrative Agent.

(iii) *Fee Letter.* The Fee Letter duly executed and delivered by Borrowers and each of the other parties thereto.

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

(v) *Organizational Documents.* (A) Certified copies of the Organizational Documents of each Obligor (other than the Canadian Obligors) and of resolutions of the Board of each Obligor (other than the Canadian Obligors) approving and authorizing the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party and granting the security interests pursuant to the Security Documents on the Funding Date (provided that the conditions set forth in Section 6.02 have been satisfied) certified as of the Closing Date by the Secretary or an Assistant Secretary or Responsible Officer of such Obligor as being in full force and effect without modification or amendment *provided* that such resolutions of Parent will not cover the issuance of the Warrant Certificate; (B) a good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Obligor's (other than the Irish Obligors and the Canadian Obligors) jurisdiction of incorporation or organization, and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date; and (C) such other documents as the Administrative Agent may reasonably request.

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

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

(viii) *Canadian Good Standing Certificates.* A good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Canadian Obligor's jurisdiction of incorporation or organization, and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Closing Date.

(ix) *Opinion of Counsel.* Customary opinions, dated as of the Closing Date, of (A) Carter Ledyard & Millburn LLP, counsel to the Obligors, (B) Matheson, Irish counsel to the Obligors, (C) Arthur Cox LLP, Irish counsel to the Administrative Agent and (D) Greensfelder, Hemker & Gale, P.C, special Missouri counsel to the Obligors, in each case in form reasonably acceptable to the Administrative Agent and its counsel.

(x) *Financing Statements.* UCC-1 financing statements, PPSA financing statements, each in form and substance satisfactory to the Administrative Agent.

(f) *Documents in Agreed Form.* The following documents shall be in agreed form, it being understood that the following documents will not be executed until the Funding Date:

- (i) the Security Agreements;
- (ii) each Short-Form IP Security Agreement;
- (iii) the Canadian Intellectual Property Security Agreements;
- (iv) the Warrant Certificate; and
- (v) the Intercompany Subordination Agreement.

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

(h) *Indebtedness.* As of the Closing Date, after giving effect to the Transactions, no Obligor shall have any Indebtedness other than Permitted Indebtedness and the Convertible Notes. All amounts due or outstanding in respect of any Indebtedness other than the Permitted Indebtedness and the Convertible Notes shall have been repaid in full, all commitments (if any) in respect thereof terminated, all Guarantees (if any) thereof discharged and released and all security therefor (if any) released, together with all fees and other amounts owing thereon, or documentation in form and substance satisfactory to the Administrative Agent to effect such release upon such repayment and termination shall have been delivered to the Administrative Agent.

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

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

(k) *No Material Adverse Change.* No Material Adverse Change shall have occurred since December 31, 2020.

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

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

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

Section 6.02. Conditions to Funding Date. The obligation of each Lender to make the Term Loan on the Funding Date shall not become effective until the following conditions precedent shall have been reasonably satisfied or waived in writing by the Administrative Agent (which satisfaction or waiver may be made simultaneously with the making of the Term Loan hereunder (other than with respect to Section 6.02(1)):

(a) *Shareholder Approval.* The Shareholder Approval shall have been obtained.

(b) *Evidence of Insurance.* Certificates from the Obligors' insurance broker or other evidence satisfactory to the Administrative Agent that all insurance required to be maintained pursuant to Section 8.05 is in full force and effect, together with endorsements naming the Administrative Agent as additional insured and lenders' loss payee, as applicable, under such Obligor's liability and casualty insurance policies.

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

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

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

(iii) *Security Documents.*

(A) The Security Documents, including, without limitation, the Security Agreements, the Pledge Agreements, each Short-Form IP Security Agreement, the Canadian Intellectual Property Security Agreements, "security registrations" at the Irish Companies Registration Office and account control agreements (including any springing blocked account or springing cash dominion agreements), duly executed and delivered by each of the Obligors.

(B) Original stock certificates for each of the Obligors pledged pursuant to the Security Documents, together with stock powers regarding the same;

(C) [Reserved].

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

(iv) *Opinion of Counsel.* Customary opinions, dated as of the Funding Date, of (A) Carter Ledyard & Millburn LLP, counsel to the Obligors, (B) Matheson, Irish counsel to the Obligors, (C) Arthur Cox LLP, Irish counsel to the Administrative Agent, (D) Minden Gross LLP, Canadian counsel to the Obligors and (E) Greensfelder, Hemker & Gale, P.C, special Missouri counsel to the Obligors, in each case in form reasonably acceptable to the Administrative Agent and its counsel.

(v) *Good Standing Certificates.* A good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Obligor's (other than Irish Obligors) jurisdiction of incorporation or organization, and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Funding Date.

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

(vii) *Approvals.* The Obligors shall certify to the Administrative Agent that all Regulatory Approvals have been made or obtained, and all material licenses, consents, authorizations and approvals of, and notices to and filings and registrations with, any Governmental Authority (including all foreign exchange approvals) in connection with the Transactions have been made or obtained, and all material third-party consents and approvals, necessary in connection with the execution, delivery and performance by the Obligors of the Loan Documents and the Transactions have been obtained.

(viii) *Organizational Documents.* (A) Certified copies of the Organizational Documents of the Canadian Obligors and of resolutions of the Board of each Canadian Obligor approving and authorizing the execution, delivery and performance of this Agreement and each of the other Loan Documents to which it is a party and granting the security interests pursuant to the Security Documents certified as of the Funding Date by the Secretary or an Assistant Secretary or Responsible Officer of such Canadian Obligor as being in full force and effect without modification or amendment; (B) resolutions of the Board of Parent approving and authorizing the execution, delivery and performance of the Warrant Certificate certified as of the Funding Date by the Secretary or an Assistant Secretary or Responsible Officer of Parent as being in full force and effect without modification or amendment; (C) a good standing certificate and/or compliance certificate from the applicable Governmental Authority of each Canadian Obligor's jurisdiction of incorporation or organization, and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business, each dated a recent date prior to the Funding Date; and (D) such other documents as the Administrative Agent may reasonably request.

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

(x) *Intercompany Subordination Agreement.* The Intercompany Subordination Agreement substantially in the form of Exhibit K, with any revisions reasonably required to conform to local law or practice of the jurisdiction in which an Immaterial Foreign Subsidiary is organized, duly executed and delivered by the Obligors and the Immaterial Foreign Subsidiaries.

(xi) *Luxembourg Subsidiary Intercompany Subordination Agreement.* The Luxembourg Subsidiary Intercompany Subordination Agreement duly executed and delivered by the Obligors and the Luxembourg Subsidiary.

(xii) *Convertible Notes Funding Actions.* The Administrative Agent shall have received a description of the Convertible Notes Funding Actions no later than 5 p.m. (New York City time) at least three (3) Business Days in advance of the Funding Date.

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

(e) *Convertible Notes.* As of the Funding Date, after giving effect to the Transactions, All amounts due or outstanding in respect of the Convertible Notes (other than the Outstanding Convertible Notes) shall have been repaid in full, all commitments (if any) in respect thereof terminated, all Guarantees (if any) thereof discharged and released and all security therefor (if any) released, together with all fees and other amounts owing thereon, or documentation in form and substance satisfactory to the Administrative Agent to effect such release upon such repayment and termination shall have been delivered to the Administrative Agent.

(f) *Customer Calls.* The Administrative Agent shall have attended and be satisfied with the results of various calls with customers of the Obligors in its sole discretion.

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

(h) *No Material Adverse Change.* No Material Adverse Change shall have occurred since December 31, 2020.

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

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

(k) *Irish Tax Reference Number.* The Administrative Agent shall have received the Irish tax reference number of the Parent for the purposes of the Stamp Duty (E-stamping of Instruments and Self-Assessment) Regulations 2012 of Ireland.

(l) *AIB Facilities.* The Administrative Agent shall have received evidence of (i) the satisfaction of all obligations, and termination of all commitments, under AIB Facility 1, AIB Facility 2 and AIB Facility 4 and (ii) an amendment to Section 12(i) in the Standard Terms and Conditions of the AIB Facilities Letter to permit the Administrative Agent’s Lien on the Collateral, in each case on terms and provisions satisfactory to the Administrative Agent in its sole discretion.

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

The Borrowing shall constitute a certification by the Administrative Borrower to the effect that the conditions set forth in Section 6.02 have been fulfilled as of the Funding Date.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders to enter into this Agreement and to extend the Term Loan hereunder, each Obligor represents and warrants to the Lenders and the Administrative Agent, on the Closing Date and on the Funding Date, that the following statements are true and correct:

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

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

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

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

(a) *Financial Statements.* The Obligors have heretofore furnished to the Administrative Agent consolidated financial statements for the Parent and its consolidated Subsidiaries for the period ended June 30, 2021. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Obligors as of such dates and for such periods substantially in accordance with IFRS, subject to quarterly or year-end adjustments and the absence of footnotes. As of June 30, 2021, no Obligor has any material contingent liabilities or liabilities for taxes, long-term lease or unusual forward or long-term commitments not disclosed in the aforementioned financial statements.

(b) *Projections.* On and as of the Closing Date, the Projections are based on good faith estimates and assumptions made by the management of the Obligors; *provided*, the Projections are not to be viewed as facts and that actual results during the period or periods covered by the Projections may differ from such Projections and that the differences may be material; *provided, further*, as of the Closing Date, the management of the Obligors believes that the Projections are reasonable and attainable.

(c) *No Material Adverse Change.* Since December 31, 2020, no event, circumstance or change has occurred that has caused or evidences, either in individually or in the aggregate, a Material Adverse Change.

Section 7.05. Properties.

(a) *Property Generally.* Each Obligor has good and marketable fee simple title to, or valid leasehold interests in, all its real and personal Property material to its business, including all Product Assets, subject only to Permitted Liens and except as would not reasonably be expected to materially interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes. Schedule 7.05(a) lists, with respect to each Obligor, owned real property as of the Closing Date.

(b) *Intellectual Property.*

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

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

(iii) To each Obligor's knowledge, the Material Intellectual Property does not violate any license or infringe any valid and enforceable Intellectual Property right of another.

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

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

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

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

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

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

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

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

(xii) To each Obligor's knowledge, no Obligor has received any written notice asserting that any Patent included in the Material Intellectual Property is invalid, unpatentable or unenforceable and, to each Obligor's knowledge, no Obligor has engaged in any conduct, or omitted to perform any necessary act, the result of which would invalidate or render unpatentable or unenforceable any such Patent, except as described in Schedule 7.05(b).

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

Section 7.06. No Actions or Proceedings.

(a) *Litigation.* There is no litigation, investigation or enforcement proceeding pending or threatened in writing with respect to any Obligor or any of its Subsidiaries by or before any Governmental Authority or arbitrator (i) that either individually or in the aggregate would reasonably be expected to have a Material Adverse Effect or (ii) that involves this Agreement or the Transactions.

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

(c) *Labor Matters.* No Obligor has engaged in unfair labor practices and there is no pending or, to any Obligor's knowledge, threatened in writing labor actions, disputes, grievance or arbitration proceedings involving the employees of any Obligor, in each case that would reasonably be expected to have a Material Adverse Effect. There is no material strike or work stoppage in existence or threatened in writing against any Obligor and to the knowledge of such Obligor, no union organization activity is taking place.

Section 7.07. Compliance with Laws and Agreements.

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

(b) Without limiting the generality of the foregoing:

(i) To the best of each Obligor's knowledge, any financial relationships between or among the Borrowers or any other Obligor, on the one hand, and any Person who is in a position to refer patients or other health care business to the Borrowers or any other Obligor (collectively a "*Referral Source*"), on the other hand, (A) comply in all material respects with all applicable Healthcare Laws, (B) reflect fair market value, have commercially reasonable terms and were negotiated at arm's length; and (C) do not obligate the Referral Source to purchase, use, recommend or arrange for the use of any products or services of the Borrowers or any other Obligor, in any manner that could reasonably be expected to constitute a violation of a state, federal or foreign health care fraud and abuse law. No Obligor directly or indirectly, has guaranteed a loan, made a payment toward a loan or otherwise subsidized a loan for any Referral Source including, without limitation, any loans related to financing the Referral Source's ownership, investment or financial interest in any Obligor

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

(iii) The Borrowers and each other Obligor are in compliance in all material respects with the Physician Payments Sunshine Act (Section 6002 of the Affordable Care Act of 2010) and its implementing regulations and any applicable state disclosure and transparency laws.

(c) To the extent any Obligor shall participate or receive reimbursement from any Federal Health Care Program or other third-party payor program as of any date subsequent to the Closing Date, (i) each Obligor shall have the requisite provider number or authorization necessary to bill any third-party payor program in which it participates and (ii) (i) there shall be no audits, inquiries, adjustments, appeals or recoupment efforts by any third-party payor programs of or against any Obligor with respect to any prior Claims, reports or billings that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

(d) Each Obligor will maintain and adhere to, in all material respects, a reasonable compliance program designed to promote compliance with and to detect, prevent and address violations of all material Healthcare Laws (a "*Health Care Compliance Program*"). No Obligor is aware of any complaints from any employees, independent contractors, vendors, physicians, customers, patients or other persons that could reasonably be considered to indicate a violation of Healthcare Laws which would be reasonably expected to result individually, or in the aggregate, in a Material Adverse Effect.

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

Section 7.09. Full Disclosure. The Obligors have disclosed to the Lenders all Material Agreements to which any Obligor is party, and all other matters to their knowledge, that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other written information furnished by or on behalf of the Obligors to the Lenders in connection with the negotiation of this Agreement and the other Loan Documents or delivered hereunder or thereunder (as modified or supplemented by other information so furnished) contains any material misstatement of material fact or omits to state any material fact necessary to make the statements therein, taken as a whole, in the light of the circumstances under which they were made, not misleading; *provided* that, with respect to Projections, the Obligors represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

Section 7.10. Regulation.

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

(b) *Margin Stock.* No Obligor is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock and no part of the proceeds of the Term Loan will be used to buy or carry any Margin Stock in violation of Regulation T, U or X.

Section 7.11. Solvency. (a) The Obligors, when taken as a whole and (b) the Borrowers when taken as a whole, are and immediately after giving effect to the Borrowing of the Term Loan, the use of proceeds thereof, and the consummation of the Transactions, will be, Solvent.

Section 7.12. [Reserved] .

Section 7.13. Indebtedness and Liens. Set forth on Schedule 7.13A is a complete and correct list of each item of Permitted Indebtedness of each Obligor that exceeds \$50,000 as of October 31, 2021; *provided, that* in no event shall an aggregate amount in excess of \$500,000 of Permitted Indebtedness be excluded from Schedule 7.13A. Set forth on Schedule 7.13B is a complete and correct list of each Permitted Lien described in Section 9.02(b) granted by the Borrowers and other Obligors with respect to their respective Property that exceeds \$50,000 and is outstanding as of October 31, 2021; *provided, that* in no event shall an aggregate amount in excess of \$500,000 of Permitted Liens be excluded from Schedule 7.13B.

Section 7.14. Material Agreements. Set forth on Schedule 7.14 (as such Schedule may be updated by the Obligors from time to time, pursuant to Section 8.01(d)) is a complete and correct list of (a) each Material Agreement and (b) each Contract creating or evidencing any Material Indebtedness, together with a summary reference to the product or purpose of each such Material Agreement and such Contract, to which an Obligor is a party. Accurate and complete copies of each such Contract listed on such schedule have been made available to the Lenders. No Obligor is in default under any such Material Agreement or such Contract creating or evidencing any Material Indebtedness listed on such schedule, and no Obligor has knowledge of any default by any counterparty to such Material Agreement or such Contract, in each case, other than bona fide disputes and defaults which could not, individually or in the aggregate, be reasonably expected to have a Material Adverse Effect. Except as otherwise disclosed on Schedule 7.14 (as such Schedule may be updated by the Borrowers from time to time), all material vendor purchase agreements and provider Contracts of the Obligors, and all Material Agreements including a grant of rights under any Intellectual Property to an Obligor, are in full force and effect without material modification from the form in which the same were disclosed to the Lenders.

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

Section 7.16. Real Property. No Obligor owns or leases (as tenant thereof) any real Property on the date hereof, except as described on Schedule 7.16.

Section 7.17. Pension and Other Plans. (a) Schedule 7.17 sets forth, as of the date hereof, a complete and correct list of, and that separately identifies, (a) all Title IV Plans, (b) all Multiemployer Plans and (c) all material Benefit Plans. Each Benefit Plan, and each trust thereunder, intended to qualify for tax exempt status under Section 401 or 501 of the Code has received a favorable IRS determination as its tax exempt status, and to the knowledge of any Obligor, no event has occurred or circumstances exist that would cause the loss of such status. Except for those that would not, in the aggregate, have a Material Adverse Effect, (i) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (ii) there are no existing or pending (or to the knowledge of any Obligor, threatened) Claims (other than routine Claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigations involving any Benefit Plan to which any Obligor incurs or otherwise has or would have an obligation or any liability or Claim and (iii) no ERISA Event is reasonably expected to occur prior to the Maturity Date. The Borrowers and each of their ERISA Affiliates have met all applicable requirements under the ERISA Funding Rules with respect to each Title IV Plan, and no waiver of the minimum funding standards under the ERISA Funding Rules has been applied for or obtained. As of the most recent valuation date for any Title IV Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60%, and neither the Borrowers nor any of their ERISA Affiliates know of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage to fall below 60% as of the most recent valuation date. To each Obligor's knowledge, as of the date hereof, no ERISA Event has occurred in connection with which obligations and liabilities (contingent or otherwise) remain outstanding. No ERISA Affiliate would have any Withdrawal Liability as a result of a complete withdrawal from any Multiemployer Plan on the date this representation is made. (b) The Obligors do not maintain, administrate, or contribute to any Canadian Defined Benefit Pension Plans, or, except as disclosed on Schedule 7.17, any other Canadian Pension Plans. With respect to Canadian Pension Plans: (i) no steps have been taken to terminate any Canadian Pension Plan (wholly or in part) which could result in any Obligor being required to make a material additional contribution to any Canadian Pension Plan; (ii) no contribution failure has occurred with respect to any Canadian Pension Plan sufficient to give rise to a lien or charge under any applicable pension benefits laws of any other jurisdiction (for certainty, not including payments in respect of contributions payable but not yet due); and (iii) no condition exists and no event or transaction has occurred with respect to any Canadian Pension Plan which is reasonably likely to result in any Obligor incurring any material liability, fine or penalty. Each Canadian Pension Plan is in compliance (other than immaterial non-compliance) with all applicable pension benefits and tax laws; (i) all contributions (other than immaterial amounts) (including employee contributions made by authorized payroll deductions or other withholdings) required to be made to the appropriate funding agency in accordance with all Applicable Laws (other than immaterial non-compliance) and the terms of each pension plan have been made in accordance with all applicable Laws (other than immaterial non-compliance) and the terms of each Canadian Pension Plan (other than immaterial non-compliance); (ii) all liabilities under each Canadian Pension Plan are funded in accordance with the terms of the respective Canadian Pension Plans, the requirements of applicable pension benefits laws and of applicable regulatory authorities (other than immaterial non-compliance) and (iii) no event has occurred and no conditions exist with respect to any Canadian Pension Plan that has resulted or could reasonably be expected to result in any Canadian Pension Plan having its registration revoked or refused by any administration of any relevant pension benefits regulatory authority or being required to pay any taxes (other than taxes the amounts of which are immaterial) or penalties under any applicable pension benefits or tax laws.

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

Section 7.19. Regulatory Approvals.

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

(b) Set forth on Schedule 7.19(b) is a complete and accurate list as of the date hereof of all Regulatory Approvals referred to in clause (a) above that are with the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other similar Regulatory Authority and identifying the Product related to such Regulatory Approval. All such Regulatory Approvals are (i) legally and/or beneficially owned exclusively by the Obligor identified on Schedule 7.19(b), free and clear of all Liens other than Permitted Liens, (ii) validly registered and on file with the applicable Regulatory Authority, in material compliance with all registration, filing and maintenance requirements (including any fee requirements) thereof, and (iii) in good standing, valid and enforceable with the applicable Regulatory Authority. All required and material notices, registrations and listings, supplemental applications or notifications, reports (including annual reports, field alerts, Device reports or other reports of adverse experiences) and all other required and material filings with respect to the Products or any related Product Development and Commercialization Activities have been filed with the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA and all other applicable Governmental Authorities.

(c) (i) All material regulatory filings required by any Regulatory Authority or in respect of any Regulatory Approval or Product Authorization with respect to any Product or any Product Development and Commercialization Activities have been made, and all such filings are complete and correct in all material respects and have complied in all material respects with all applicable Requirements of Law, (ii) all clinical and pre-clinical trials, if any, of investigational Products have been and are being conducted by each Obligor according to all applicable Requirements of Law in all material respects along with appropriate monitoring of clinical investigator trial sites for their compliance, and (iii) each Obligor has disclosed to the Lenders all such material regulatory filings and, to the extent requested by any Lender, any written material communications relating thereto between representatives of each Obligor and any Regulatory Authority.

(d) Each Obligor and, to each Obligor's knowledge, each of its agents are in compliance in all material respects with all applicable statutes, rules and regulations (including all Regulatory Approvals and Product Authorizations) of all applicable Governmental Authorities, including the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA and all other Regulatory Authorities, with respect to each Product and all Product Development and Commercialization Activities related thereto. Each Obligor has and maintains in full force and effect all the necessary and requisite Regulatory Approvals and Product Authorizations for its Products. Each Obligor is in compliance in all material respects with all applicable registration and listing requirements set forth in all applicable FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or Laws or equivalent regulation of each other Governmental Authority having jurisdiction over such Person. Each Obligor adheres in all material respects to all applicable regulations of all Regulatory Authorities with respect to its Products and all Product Development and Commercialization Activities related thereto.

(e) Except as set forth on Schedule 7.19(e), (i) no Obligor has received from any Regulatory Authority any notice of adverse findings with respect to any Product or any Product Development and Commercialization Activities related thereto, including any FDA Form 483 inspectional observations, notices of violations, warning letters, criminal proceeding notices under Section 305 of the FD&C Act, or any other similar communication from any Regulatory Authority, (ii) there have been no seizures conducted or, to each Obligor's knowledge, threatened by any Regulatory Authority with respect to any Product, and no recalls, market withdrawals, field notifications, notifications of misbranding or adulteration or safety alerts conducted, requested or, to any Obligor's knowledge, threatened by any Regulatory Authority with respect to any Product, and no recalls, market withdrawals, field notifications, notifications of misbranding or adulteration or safety alerts have been conducted, requested or, to each Obligor's knowledge, threatened by any Regulatory Authority relating to any Product, and (iii) no Obligor has received any written notification that remains unresolved from the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other Regulatory Authority indicating any breach or violation of any applicable Product Authorization or Regulatory Approval, including that any Product is misbranded or adulterated as defined in the FD&C Act or the rules and regulations promulgated thereunder, in each case of (i), (ii) and (iii) that has had, or could reasonably be expected to have, a Material Adverse Effect.

(f) Neither any Obligor nor, to any Obligor's knowledge, any officer, employee or agent thereof, has made an untrue statement of a material fact or fraudulent statements to the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other Regulatory Authority, failed to disclose a material fact required to be disclosed to the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other Regulatory Authority, or committed an act, made a statement, or failed to make a statement that, at the time such disclosure was made (or was not made), would reasonably be expected to provide a basis for the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other Regulatory Authority to invoke its policy respecting Fraud, Untrue Statements of Material Facts, Bribery and Illegal Gratuities, set forth in 56 Fed. Reg. 46191 (September 10, 1991) or any similar policy.

(g) No Obligor has received any written notice that the FDA, WHO, CE-Mark EMA, HPRA, Health Canada, ANVISA or any other applicable Regulatory Authority has commenced or initiated, or, to the knowledge of any such Obligor, threatened to commence or initiate, any action to withdraw any Regulatory Approval or Product Authorization or requested the recall of any Products or commenced or initiated or, to the knowledge of such Obligor, threatened to commence or initiate, any action to enjoin any Product Development and Commercialization Activities of such Obligor.

(h) The clinical, preclinical, safety and other studies and tests conducted by or on behalf of or sponsored by each Obligor, or in respect of which any Products or Product candidates under development have participated, were (and if still pending, are) being conducted materially in accordance with standard medical and scientific research procedures and all applicable Product Authorizations. Each Obligor has operated within, and currently is in compliance in all material respects with, all applicable Laws (including, without limitation, all applicable Health Canada Laws), Product Authorizations and Regulatory Approvals, as well as the rules and regulations of the FDA, Health Canada and each other Regulatory Authority. No Obligor has received any notices or other correspondence from the FDA, Health Canada, or any other Regulatory Authority requiring the termination or suspension of any clinical, preclinical, safety or other studies or tests used to support regulatory clearance of, or any Product Authorization or Regulatory Approval for, any Product.

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

Section 7.20. Capitalization. All of the issued and outstanding securities of each Obligor have been duly authorized, are validly issued, fully paid, and non-assessable. As of the Funding Date, Parent has the legal right and full power and authority to execute and deliver, and to perform its obligations under, the Warrant Certificate. As of the Funding Date, Parent has sufficient authorized but unissued share capital in Parent to satisfy in full, without the need for the passing of any further resolutions of its shareholders, the Warrant Certificate and the outstanding right to subscribe for shares in Parent as represented by the Warrant Certificate, without first having to offer the same to any existing shareholders of Parent or any other person. As of the Closing Date and the Funding Date, except as set forth on Schedule 7.20 and the Warrant Certificate, there are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, or other Contracts or commitments that could require the Obligors to issue, sell, or otherwise cause to become outstanding any of their ownership interests. There are no outstanding or authorized stock appreciation, phantom stock, profit participation, or similar rights with respect to the Obligors (other than the Parent). There are no voting trusts, proxies, or other agreements or understandings with respect to the voting of the ownership interests of the Obligors (other than the Parent). None of the Equity Interests in any Obligor has been mortgaged, assigned or pledged in favor of any Person, other than pursuant to the Security Documents.

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

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

Section 7.23. Trade Compliance. Except as disclosed in Schedule 7.23, Obligors and, to the knowledge of the Obligors, any director, officer or employee of an Obligor acting on behalf of the Obligors, are in compliance with the Sanctions Laws.

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

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

Section 7.26. Royalty and Other Payments. Except as set forth on Schedule 7.26 and commissions or other sales based compensation to its employees or agents, no Obligor is obligated to pay any material royalty, milestone payment, deferred payment or any other contingent payment in respect of any Product.

ARTICLE 8

AFFIRMATIVE COVENANTS AND FINANCIAL COVENANTS

Each Obligor covenants and agrees with the Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than the Warrant Obligations and inchoate indemnity obligations) have been paid in full in cash:

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

(a) within forty-five (45) days of the end of each fiscal Quarter, a Flash Financial Report.

(b) as soon as available and in any event within fifty-five (55) days after the end of the first and third fiscal quarters, sixty (60) days after the end of the second fiscal quarter and ninety (90) days after the end of the fiscal year, the consolidated balance sheets of Parent and its Subsidiaries as at the end of such fiscal quarter and the related consolidated statements of income, stockholders' equity and cash flows of Parent and its Subsidiaries for such fiscal quarter and for the period from the beginning of the then current fiscal year to the end of such fiscal quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous fiscal year and the corresponding figures from the Financial Plan for the current fiscal year, all in reasonable detail together with (i) a certificate of a Responsible Officer of the Administrative Borrower stating that such financial statements fairly present in all material respects the financial condition of Parent and its Subsidiaries as at such date and the results of operations of Parent and its Subsidiaries for the period ended on such date and have been prepared substantially in accordance with IFRS consistently applied, subject to changes resulting from normal quarterly or year-end adjustments and except for the absence of footnotes and (ii) a management's discussion and analysis of the financial condition and results of operations, including Parent and its Subsidiaries' liquidity and capital resources; *provided* that documents required to be furnished pursuant to this Section 8.01(b) shall be deemed furnished on the date that such documents are publicly available on "EDGAR" so long as such filings include quarterly income statements, balance sheets and cash flow statements.

(c) as soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year, the consolidated balance sheets of Parent and its Subsidiaries as of the end of such fiscal year, and the related consolidated statements of income, shareholders' equity and cash flows of Parent and its Subsidiaries for such fiscal year, setting forth in each case in comparative form the corresponding figures for the previous fiscal year and the corresponding figures from the Financial Plan for the fiscal year covered by such financial statements, prepared substantially in accordance with IFRS consistently applied, all in reasonable detail accompanied by (i) a report and opinion thereon of Grant Thornton or another firm of independent certified public accountants of recognized national standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception audit (other than solely with respect to, or resulting solely from the upcoming Stated Maturity Date occurring within one year from the time such report is delivered) or any qualification or exception as to the scope of such audit or related to the maturity of the Transactions and (ii) a management's discussion and analysis of the financial condition and results of operations, including the Obligor's liquidity and capital resources; *provided* that, so long as Parent is a Publicly Reporting Company, Parent's filing of an Annual Report on Form 20-F with the SEC shall be deemed to satisfy the requirements of this Section 8.01(c) on the date on which such report is first available via the SEC's EDGAR system or a successor system related thereto;

(d) concurrently with the delivery of the reports described in Section 8.01(b) and (c), and within thirty (30) days after the end of each month which does not end at the end of a fiscal year or fiscal quarter of Parent, a compliance certificate of a Responsible Officer of the Administrative Borrower as of the end of the applicable accounting period (which delivery may, unless a Lender requests executed originals, be by electronic communication including email and shall be deemed to be an original authentic counterpart thereof for all purposes) in the form of Exhibit E (a “*Compliance Certificate*”) which, for purposes of clarification, shall (i) confirm the Obligors’ compliance with Section 8.15 and (ii) for each month end that coincides with the end of a fiscal quarter or fiscal year of Parent, (A) confirm the Obligors’ compliance with Section 8.11 and Section 8.16, (B) notify the Administrative Agent if a Subsidiary which qualified as an Immaterial Foreign Subsidiary at the time of the delivery of the previous Compliance Certificate ceases to qualify as an Immaterial Foreign Subsidiary, (C) state the representations and warranties made by the Obligors in Article 7 are true in all material respects on and as of the date thereof; *provided* that to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects, (D) confirm that no Default or Event of Default is continuing (and if a Default or Event of Default has occurred and is continuing state the proposed actions that the Obligors intend to take in connection with such Default or Event of Default), (E) provide a copy of any new Material Agreement and (F) provide updated Schedules (if any) to this Agreement;

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

(f) upon any renewal or replacement, the information regarding insurance maintained by the Obligors as and when required under Section 8.05;

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

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

(i) a financial forecast for Parent and its Subsidiaries for each fiscal year, including forecasted balance sheets, statements of income and cash flows of the Borrower and its Subsidiaries (the "*Financial Plan*"), all of which shall be prepared on a consolidated basis and delivered not later than March 31 of such fiscal year;

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

(k) so long as Parent is a Publicly Reporting Company, the Administrative Borrower shall within five (5) Business Days of Parent filing, provide access (via posting and/or links on Parent's web site) to all reports on Form 20-F and Form 6-K filed with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange; and within five (5) Business Days of filing, provide notice and access (via posting and/or links on Parent's web site) to all reports filed with the SEC, and copies of (or access to, via posting and/or links on Parent's web site) all other reports, proxy statements and other materials filed by Parent with the SEC, any Governmental Authority succeeding to any of the functions of the SEC or with any national securities exchange.

Section 8.02. Notices of Material Events. The Administrative Borrower will furnish to the Administrative Agent for distribution to the Lenders written notice of the following events within the time frames listed below:

- (a) promptly after the occurrence of any Default or Event of Default;
- (b) within three (3) Business Days after the occurrence of any Casualty Event with respect to any Obligor's Property;
- (c) (i) prior to the execution of a definitive agreement for any proposed Acquisition by any Obligor that would reasonably be expected to result in environmental liability under Environmental Laws in excess of \$250,000, and (ii) in each case, to the extent that any of the following would reasonably be expected to result in liability in excess of \$500,000: (A) spillage, leakage, discharge, disposal, leaching, migration or release of any Hazardous Material required to be reported to any Governmental Authority under applicable Environmental Laws, and (B) all actions, suits, Claims, notices of violation, hearings, investigations or proceedings pending, or threatened in writing against or affecting any Obligor or with respect to the ownership, use, maintenance and operation of their respective businesses, operations or properties, relating to Environmental Laws or Hazardous Material;
- (d) within three (3) Business Days of obtaining written notice or knowledge thereof, the assertion of any environmental matter by any Person in writing against, or with respect to the activities of, any Obligor and any alleged violation of or non-compliance with any Environmental Laws or any Permits, licenses or authorizations, in each case, which would reasonably be expected to involve damages in excess of \$250,000 other than any environmental matter or alleged violation that, if adversely determined, would not (either individually or in the aggregate) have a Material Adverse Effect;
- (e) within three (3) Business Days of obtaining notice to an Obligor of the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or directly affecting any Obligor, in each case, that would reasonably be expected to result in a Material Adverse Effect;
- (f) (i) on or prior to any filing by any ERISA Affiliate of any notice of intent to terminate any Title IV Plan, a copy of such notice and (ii) promptly, and in any event within ten (10) days, after any Responsible Officer of any ERISA Affiliate knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan or Multiemployer Plan, a notice (which may be made by telephone if promptly confirmed in writing) describing such waiver request and any action that any ERISA Affiliate proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto;

(g) within ten (10) Business Days of obtaining written notice or knowledge thereof, (i) the termination of any Material Agreement other than in the Ordinary Course of Business pursuant to its terms; (ii) the receipt by any Obligor of a written notice under any Material Agreement (and a copy thereof) asserting a default by such Obligor where such alleged default would permit such counterparty to terminate such Material Agreement; (iii) the entering into any new Material Agreement by an Obligor (and a copy thereof); or (iv) any amendment to a Material Agreement that would be materially adverse to the Lenders (and a copy thereof) (which includes, but is not limited to, any amendments to provisions relating to pricing and term); *provided* that notices required under this subsection (g) may be delivered with the next Compliance Certificate unless any of the foregoing events would reasonably be expected to have a Material Adverse Effect;

(h) within three (3) Business Days of obtaining written notice or knowledge thereof, any product recalls, safety alerts, corrections, withdrawals, marketing suspensions, removals or the like conducted, to be undertaken or issued by any Obligor, whether or not at the request, demand or order of any Governmental Authority or otherwise with respect to any Product;

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

(j) within five (5) Business Days of obtaining written notice or knowledge thereof, a material licensing agreement or arrangement entered into by any Obligor in connection with any infringement or alleged infringement of the Intellectual Property of another Person that could reasonably be likely to result in a Material Adverse Effect;

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

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

(m) within thirty (30) days of the date thereof, or, if earlier, on the date of delivery of any financial statements pursuant to Section 8.01, notice of any material change in accounting policies or financial reporting practices by the Obligors;

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

- (o) within five (5) Business Days of any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect;
- (p) within five (5) Business Days of the failure to pay any Taxes or obligations in accordance with Section 8.04;
- (q) concurrently with the delivery of financial statements under Section 8.01, after the date hereof and during such prior fiscal year, the creation or other acquisition of any Intellectual Property by any Obligor that is registered or becomes registered or is the subject of an application for registration with the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office, as applicable, or with any other equivalent foreign Governmental Authority; and
- (r) five (5) Business Days prior to any change to any Obligor's ownership of Deposit Accounts, Securities Accounts and Commodity Accounts, by delivering to the Lenders an updated Schedule 7 to the Security Agreements setting forth a complete and correct list of all such accounts as of the date of such change.

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

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

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

Section 8.03. Existence; Maintenance of Properties, Etc.

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

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

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

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

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

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

Section 8.06. Books and Records; Inspection Rights. Each Obligor will keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities. It will permit any representatives designated by the Administrative Agent, upon reasonable prior notice and at reasonable times, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during normal business hours and with reasonable advance notice as the Administrative Agent may request. It will, pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent (a) so long as no Default has occurred and is continuing, of two (2) such inspections each calendar year and (b) during a continuing Default, all such inspections.

Section 8.07. Compliance with Laws.

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

(b) Each Obligor will maintain all records required to be maintained by a Governmental Authority or otherwise under any applicable Healthcare Law, except where failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(c) Each Obligor will maintain a Health Care Compliance Program, which will be reviewed and updated annually, as necessary.

Section 8.08. Licenses. Each Obligor will obtain and maintain all licenses, authorizations, consents, filings, exemptions, registrations and other Governmental Approvals necessary in connection with the execution, delivery and performance of the Loan Documents, the consummation of the Transactions or the operation and conduct of its business and ownership of its properties, except where failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 8.09. Action under Environmental Laws. Each Obligor will, upon a Responsible Officer becoming aware of the release of any Hazardous Materials or the existence of any environmental liability under applicable Environmental Laws with respect to their respective businesses, operations or properties, take all actions, at their cost and expense, as shall be required by applicable Law to investigate and clean up the condition of their respective businesses, operations or properties, including all required removal, containment and remedial actions, and restore their respective businesses, operations or properties to a condition, except where failure to do so would not reasonably be expected to have a Material Adverse Effect.

Section 8.10. Use of Proceeds. The proceeds of the Term Loan will be used only as provided in Section 2.05. No part of the proceeds of the Term Loan will be used, whether directly or indirectly, for any purpose that violates any of the regulations of the Board of Governors of the Federal Reserve System, including Regulations T, U and X.

Section 8.11. Certain Obligations Respecting Subsidiaries; Further Assurances; and Intellectual Property.

(a) *Subsidiaries.* Each Obligor will take such action, and will cause each of its Subsidiaries to take such action, from time to time as shall be necessary to ensure that all Subsidiaries are “Guarantors” hereunder. Without limiting the generality of the foregoing, in the event that any Obligor or any of its Subsidiaries shall form or acquire any new Subsidiary, it and its Subsidiaries will promptly and in any event within fifteen (15) days (or such longer time as consented to by the Administrative Agent in writing) of the formation or Acquisition of such Subsidiary:

(i) cause such new Subsidiary to become a “Guarantor” hereunder, and a “Grantor” under the Security Documents, pursuant to a Guarantee Assumption Agreement and cause such new Subsidiary to become an “Obligor” under the Intercompany Subordination Agreement and the Luxembourg Subsidiary Intercompany Subordination Agreement;

(ii) take such action or cause such Subsidiary to take such action (including delivering originals of any certificated Equity Interests of such Subsidiary, together with original, executed, undated transfer powers executed in blank and originals of any intercompany notes with undated endorsements executed in blank) as shall be necessary to create and perfect valid and enforceable first priority (subject to Permitted Liens) Liens on substantially all of the personal Property of such new Subsidiary as collateral security for the obligations of such new Subsidiary hereunder;

(iii) to the extent that the parent of such Subsidiary is not a party to the Security Documents or has not otherwise pledged Equity Interests in its Subsidiaries in accordance with the terms of the Security Documents and this Agreement, cause the parent of such Subsidiary to execute and deliver a pledge agreement in favor of the Lenders, in respect of all outstanding issued shares of such Subsidiary; and

(iv) deliver such proof of corporate action, incumbency of officers, opinions of counsel and other documents as is consistent with those delivered by each Obligor pursuant to Section 6.01 and Section 6.02 or as the Majority Lenders shall have requested;

provided that, solely with respect to any Subsidiary that is an Immaterial Foreign Subsidiary, no such actions shall be required other than (x) a pledge by the owner of such Immaterial Foreign Subsidiary (to the extent such owner is a Canadian Obligor or a Borrower) of 100% of the Equity Interests of such Immaterial Foreign Subsidiary, which pledge shall not be required to be perfected under the Law of such Immaterial Foreign Subsidiary's jurisdiction of formation and (y) causing such Immaterial Foreign Subsidiary to execute a joinder to the Intercompany Subordination Agreement; *provided further*, that at the request of the Administrative Agent, with respect to an Immaterial Foreign Subsidiary that is owned by an Irish Obligor, the owner of such Immaterial Foreign Subsidiary shall pledge 100% of the Equity Interests of such Immaterial Foreign Subsidiary, which pledge shall be perfected under the Law of such Immaterial Foreign Subsidiary's jurisdiction of formation. Upon the creation or designation of a Foreign Subsidiary as an Immaterial Foreign Subsidiary, the Administrative Borrower shall provide notice to the Administrative Agent designating such Foreign Subsidiary as an Immaterial Foreign Subsidiary. For the avoidance of doubt, in the event that any Subsidiary ceases to qualify as an Immaterial Foreign Subsidiary, such Foreign Subsidiary shall, at the request of the Administrative Agent, or the election of the Borrowers, promptly comply with clauses (a)(i)-(iv) hereof.

On the Closing Date, and until such time that the Administrative Agent may request, the Luxembourg Subsidiary shall not be a Guarantor, shall not be required to take the actions set forth in this Section 8.11 and the owner of the Luxembourg Subsidiary shall not be required to pledge the Equity Interests of the Luxembourg Subsidiary.

(b) *Further Assurances.* Each Obligor will take such action from time to time as shall reasonably be requested in writing by the Majority Lenders to effectuate the purposes and objectives of this Agreement. Without limiting the generality of the foregoing, it will, and will cause each Person that is required to be a Guarantor to, take such action from time to time (including executing and delivering such assignments, security agreements, control agreements and other instruments) as shall be reasonably requested in writing by the Majority Lenders to create, in favor of the Lenders, perfected security interests and Liens (subject to Permitted Liens) in substantially all of the personal Property of such Obligor as collateral security for the Obligations; *provided* that any such security interest or Lien shall be subject to the relevant requirements of the Security Documents.

(c) *Intellectual Property.* In the event that any Obligor creates, develops or acquires Obligor Intellectual Property during the term of this Agreement, then the provisions of this Agreement shall automatically apply thereto and any such Obligor Intellectual Property shall automatically constitute part of the Collateral under the Security Documents, without further action by any party, in each case from and after the date of such creation, development or acquisition (except that any representations or warranties of any Obligor shall apply to any such Obligor Intellectual Property only from and after the date, if any, subsequent to such acquisition that such representations and warranties are brought down or made anew as provided herein). In the event that any Obligor holds or acquires Obligor Intellectual Property during the term of this Agreement, then, upon the request of the Administrative Agent, such Obligor shall take any action as shall be reasonably necessary and reasonably requested by the Administrative Agent to ensure that the provisions of this Agreement and the Security Agreements shall apply thereto and any such Obligor Intellectual Property shall constitute part of the Collateral under the Security Documents.

Section 8.12. Termination of Non-Permitted Liens. In the event that any Responsible Officer of any Obligor shall become aware or be notified by the Lenders of the existence of any outstanding Lien against any Property of any Obligor or any of its Subsidiaries, which Lien is not a Permitted Lien, such Obligor shall use its best efforts to promptly terminate or cause the termination of such Lien.

Section 8.13. Non-Consolidation. Each Obligor will maintain entity records and books of account separate from those of any other entity, other than the Obligors, which is an Affiliate of such entity.

Section 8.14. Anti-Terrorism and Anti-Corruption Laws. No Obligor nor any of its Subsidiaries shall engage in any transaction that violates any of the applicable prohibitions set forth in any Economic Sanctions Law, Irish Economic Sanctions Laws, Anti-Terrorism Law, Irish Anti-Terrorism Laws or the *US Foreign Corrupt Practices Act of 1977* (15 USC. §§ 78dd-1 *et seq.*). No Obligor will use any part of the proceeds from the loan on behalf of any Designated Person and will not use, directly by it or indirectly through any Subsidiary, such proceeds in connection with any investment in, or any transactions or dealings with, any Designated Person. None of the funds or assets of such Obligor or any Subsidiary that are used to repay the Term Loan shall constitute property of, or shall be beneficially owned by, any Designated Person or, to such Obligor's knowledge, be the direct proceeds derived from any transactions that violate the prohibitions set forth in any applicable Economic Sanctions Law or Irish Economic Sanctions Laws and no Designated Person shall have any direct or indirect interest in such Obligor or such Subsidiary insofar as such interest would violate any Economic Sanctions Laws or Irish Economic Sanctions Laws applicable to such Obligor or such Subsidiary.

Section 8.15 . Minimum Liquidity. The Obligors shall have aggregate Unrestricted Cash of not less than \$5,000,000 at all times.

Section 8.16 Minimum Net Revenue. As of the end of the fiscal quarter ended December 31, 2021, and each fiscal quarter thereafter, Parent and its Subsidiaries shall maintain, on a consolidated basis, Net Revenue for the twelve (12) month period most recently ended on such date of not less than the amount set forth in the table below:

TWELVE-MONTH PERIOD ENDED	MINIMUM NET REVENUE
December 31, 2021	\$91,213,000
March 31, 2022	\$82,296,000
June 30, 2022	\$74,166,000
September 30, 2022	\$71,413,000
December 31, 2022	\$73,307,000
March 31, 2023	\$78,392,000
June 30, 2023	\$83,484,000
September 30, 2023	\$87,901,000
December 31, 2023	\$92,305,000
March 31, 2024	\$96,541,000
June 30, 2024	\$100,623,000
September 30, 2024	\$104,140,000
December 31, 2024	\$108,238,000
March 31, 2025	\$112,098,000
June 30, 2025	\$115,410,000
September 30, 2025	\$119,319,000

Section 8.17. Maintenance of Regulatory Approvals, Contracts, Intellectual Property, Etc. With respect to each Product, each Obligor will (a) maintain in full force and effect all material Regulatory Approvals (including the Product Authorizations), Material Agreements, or other rights necessary for the current operations of such Obligor's business, as the case may be, including in respect of all related Product Development and Commercialization Activities; (b) maintain in full force and effect all Material Intellectual Property that is used in and necessary for related Product Development and Commercialization Activities; and (c) use commercially reasonable efforts to pursue and maintain in full force and effect legal protection for all new, Material Intellectual Property that is used in and necessary in connection with any Product Development and Commercialization Activities relating to any such Product.

Section 8.18. Cash Management. The Obligors will:

(a) maintain all Deposit Accounts, Securities Accounts, Commodity Accounts and lockboxes (other than Excluded Accounts) with a bank or financial institution that has either (i) other than in respect of any such account charged pursuant to the Irish Debenture, executed and delivered to the Administrative Agent an account control agreement (provided that, for greater certainty, if under the applicable laws of any Canadian jurisdiction control over Deposit Accounts is not available, then an account control agreement shall be deemed to constitute a springing blocked account or springing cash dominion agreement in respect of such Deposit Accounts) or (ii) in respect of any such account charged pursuant to the Irish Debenture, executed and delivered to the Administrative Agent an acknowledgment to the notice of assignment delivered to such bank or financial institution by the relevant Irish Obligor pursuant to the Irish Debenture, in each case in form and substance reasonably acceptable to the Administrative Agent (each such Deposit Account, Securities Account, Commodity Account and lockbox, a "Controlled Account");

(b) deposit promptly, and in any event no later than seven (7) Business Days after the date of receipt thereof, all cash, checks, drafts or other similar items of payment relating to or constituting payments greater than \$75,000 in the aggregate at any time made in respect of any and all accounts and other rights and interests into Controlled Accounts; and

(c) in order to segregate and to facilitate perfection of Administrative Agent's security interest in funds received by any Obligor from any Federal Health Care Programs, the applicable Obligor shall, (i) within sixty (60) days after the Funding Date (or such later date as may be agreed to by Administrative Agent), or (ii) with respect to an Obligor's future participation in any Federal Health Care Program, prior to such Obligor's receipt of payments exceeding \$50,000 in any month from Federal Health Care Programs, notify all Government Authorities making any payments under any Federal Health Care Program to make any such payments only to one or more Segregated Health Care Accounts. No Obligor shall deposit any funds to a Segregated Health Care Account or direct or permit any other Person to deposit any funds to a Segregated Health Care Account, other than payments received from Federal Health Care Programs. The Obligors shall have until the date that is ninety (90) days following (i) the Funding Date (or such later date as may be agreed to by Administrative Agent), or (ii) the date the applicable Obligor begins receiving payments from any Federal Health Care Program, to cause all amounts deposited into the Segregated Health Care Accounts to be automatically swept on a daily basis to a Controlled Account pursuant to a Sweep Agreement. Any such Sweep Agreement will require such depository bank to waive all of its existing and future rights of recoupment and set-off and banker's lien against any Segregated Health Care Accounts, but shall permit such depository bank to maintain its existing and future rights of recoupment and set-off and banker's lien against any Controlled Account.

Section 8.19. Certain Post-Funding Obligations. The Obligors will provide the items set forth in Schedule 8.19 within the time periods set forth therein.

Section 8.20. COMI. The Parent and each other Irish Obligor will maintain its COMI in Ireland and not have an establishment (within the meaning of the EU Insolvency Regulation) outside Ireland.

Section 8.21. Cashless Exercise of Warrant Certificate and Par Value. If Perceptive (or its permitted successors or assigns with respect to the Warrant Certificate) exercises at any time, in whole or in part, the Warrant Certificate by means of the “cashless exercise” procedure specified in the Warrant Certificate, then the following shall apply. With respect to the American Depositary Shares relating to the American Depositary Receipts the subject of such cashless exercise (the “*Relevant ADSs*”) the Non-EEA Obligors shall procure (on a joint and several basis) that a cash amount is paid to the Parent sufficient to ensure that, immediately following the exercise of such cashless exercise, the shares in the capital of the Parent represented by the Relevant ADSs are fully paid up to their par value to the extent required by the Constitution of the Parent and the Companies Act 2014 of Ireland (as amended). Capitalized terms used in this Section 8.21 and not otherwise defined in this Agreement have the meaning given to them in the Warrant Certificate. For avoidance of doubt: (i) none of Perceptive (or its successors or assigns) shall be liable to account to any Obligor or other person with respect to any amount paid pursuant to this Section and (ii) notwithstanding any other provision of this Agreement, no EEA Obligor shall be liable (whether as principal or surety or otherwise) to make payment under this Section 8.21 in any circumstances.

Section 8.22. Canadian Pension Plans. Maintain all Canadian Pension Plans relating to each Obligor in compliance with all applicable Laws in all material respects

Section 8.23. Payment of Warrant Stamp Amount. As soon as possible following the Funding Date (but in any event no less than 15 (fifteen) Business Days prior to the deadline for filing such return with the Irish Revenue Commissioners) the Lenders shall provide the Parent with a draft form of stamp duty return and within 10 (ten) days of being provided with such draft form of stamp duty return, the Parent shall provide the Lenders with its reasonable comments thereon. The Lenders shall consider any such reasonable comments and shall endeavor to ensure that the return is made to the Irish Revenue Commissioners in good time.

ARTICLE 9

NEGATIVE COVENANTS

Each Obligor covenants and agrees with the Administrative Agent and the Lenders that, until the Commitments have expired or have been terminated and all Obligations (other than the Warrant Obligations and inchoate indemnity obligations) have been paid in full in cash:

Section 9.01. Indebtedness. Each Obligor will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Indebtedness, whether directly or indirectly, except:

- (a) the Obligations;
- (b) Permitted Indebtedness and Permitted Refinancings thereof; *provided*, that the aggregate principal amount of Permitted Indebtedness on the Closing Date not listed on Schedule 7.13A shall not exceed \$500,000;
- (c) accounts payable to trade creditors for goods and services and current operating liabilities (not the result of the borrowing of money) incurred in the Ordinary Course of Business after the Closing Date;
- (d) Indebtedness consisting of Guarantees resulting from endorsement of negotiable instruments for collection by an Obligor or any of its Subsidiaries in the Ordinary Course of Business;
- (e) Indebtedness in the form of intercompany receivables and payables: (i) among Obligor; (ii) among Immaterial Foreign Subsidiaries; and (iii) among Immaterial Foreign Subsidiaries and an Obligor; *provided* that (x) all additional liabilities from an Obligor to an Immaterial Foreign Subsidiary (other than liabilities from an Obligor to the Brazilian Subsidiary) pursuant to clause (iii) arising after the Closing Date, together with the Investments in Immaterial Foreign Subsidiaries permitted pursuant to Section 9.05(m), made after the Closing Date, shall in an aggregate amount not exceed \$1,000,000 plus interest accrued thereon and (y) until such time as the Brazilian Subsidiary becomes a “Guarantor” hereunder, and a “Grantor” under the Security Documents, additional liabilities from an Obligor to the Brazilian Subsidiary, together with the Investments in the Brazilian Subsidiary permitted pursuant to Section 9.05(l) made after the Closing Date, shall in an aggregate amount not exceed \$1,500,000 per fiscal year plus interest accrued thereon; *provided further* that all such intercompany liabilities pursuant to clause (iii) shall be unsecured and subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Intercompany Subordination Agreement;

- (f) Indebtedness constituting of deposits or prepayments received from customers in the ordinary course of business;
- (g) Guarantees by an Obligor of Indebtedness of any other Obligor;
- (h) Purchase money Indebtedness and Capital Lease Obligations; *provided* that (i) if secured, the collateral therefor consists solely of the assets being financed, the products and proceeds thereof and books and records related thereto, (ii) in the case of purchase money Indebtedness, such Indebtedness shall constitute at least 75% of the aggregate consideration paid with respect to such asset and (iii) the aggregate outstanding principal amount of such Indebtedness incurred after the Closing Date does not exceed \$1,500,000 at any time;
 - (i) unsecured workers' compensation Claims, payment obligations in connection with health, disability or other types of social security benefits, unemployment or other insurance obligations, reclamation and statutory obligations, in each case incurred in the Ordinary Course of Business;
 - (j) Indebtedness under Hedging Agreements permitted pursuant to Section 9.05(f);
 - (k) Indebtedness approved in advance in writing by the Majority Lenders;
 - (l) Indebtedness of the Obligors and their Subsidiaries with respect to overdrafts, or corporate credit cards not to exceed \$750,000 at any time outstanding;
 - (m) Indebtedness incurred in connection with letters of credit, entered into in the Ordinary Course of Business, that are secured solely by cash or cash equivalents and issued on behalf of the Borrower in an aggregate amount outstanding not to exceed \$2,000,000 at any time;
 - (n) other unsecured Indebtedness incurred after the Closing Date in an aggregate amount not to exceed \$2,500,000;
 - (o) Indebtedness in the form of intercompany receivables and payables among the Luxembourg Subsidiary and the Obligors; *provided* that (i) the aggregate amount of all such intercompany liabilities to the Luxembourg Subsidiary shall not exceed the amounts outstanding on the Funding Date (plus any accrued interest thereon) and (ii) all such intercompany liabilities shall be unsecured and subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Luxembourg Subsidiary Intercompany Subordination Agreement;

(p) subject to the completion of the Convertible Notes Funding Actions, the Convertible Notes (other than the Outstanding Convertible Notes);

(q) Indebtedness outstanding on the Closing Date and until the Funding Date under AIB Facility 1, AIB Facility 2 and AIB Facility 4;

(r) Indebtedness outstanding under AIB Facility 3 in an aggregate amount not to exceed EUR (€)170,000 at any time outstanding; and

(s) the Outstanding Convertible Notes.

Section 9.02. Liens. Each Obligor will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any Property now owned by it, except:

(a) Liens securing the Obligations;

(b) any Lien on any Property of any Obligor existing on the date hereof and set forth in Schedule 7.13B; *provided* that (i) no such Lien shall extend to any other Property of such Obligor and (ii) any such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(c) Liens securing Indebtedness permitted under Section 9.01(h); *provided* that such Liens are restricted solely to the collateral described in Section 9.01(h);

(d) Liens imposed by Law which were incurred in the Ordinary Course of Business, including (but not limited to) carriers', warehousemen's, landlords' and mechanics' Liens, Liens relating to leasehold improvements and other similar liens arising in the Ordinary Course of Business and which (i) do not in the aggregate materially detract from the value of the Property subject thereto or materially impair the use thereof in the operations of the business of such Person or (ii) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the Property subject to such Liens and for which adequate reserves have been made if required substantially in accordance with IFRS;

(e) Liens, pledges or deposits made in the Ordinary Course of Business in connection with bids, grant applications, Contracts, leases, appeal bonds, workers' compensation, unemployment insurance or other similar social security legislation;

(f) Liens securing Taxes, assessments and other governmental charges, the payment of which is not yet due or is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by IFRS shall have been made;

(g) servitudes, easements, rights of way, restrictions and other similar encumbrances on real Property imposed by applicable Laws and encumbrances consisting of zoning or building restrictions, easements, licenses, restrictions on the use of Property or minor imperfections in title thereto which, in the aggregate, are not material, and which do not in any case materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of any of the Obligors;

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

(i) Liens in connection with transfers permitted under Section 9.09;

(j) any judgment Lien or Lien arising from decrees or attachments not constituting an Event of Default;

(k) leases or subleases of real property granted in the Ordinary Course of Business, and leases, subleases, nonexclusive licenses or sublicenses of personal property (other than Intellectual Property) granted in the Ordinary Course of Business;

(l) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of custom duties in connection with the importation of goods in the Ordinary Course of Business;

(m) Liens on a Deposit Account of the Obligors and the cash and cash equivalents therein, in each case, securing Indebtedness described in Section 9.01(l);

(n) Permitted Licenses solely to the extent that such Permitted License would constitute a Lien;

(o) Liens securing Indebtedness permitted pursuant to Sections 9.01 (r); and

(p) Liens listed in Item 4 and Item 7 of Schedule 7.13B; *provided* that all such Liens shall be formally discharged off of the public record on or before the date that is two (2) months following the Funding Date (or such later date as may be consented to by the Administrative Agent in its reasonable discretion).

provided that no Lien otherwise permitted under any of the foregoing Sections 9.02(b), (c), (d), (e), (g), (h), (i), (k), (l) or (m) shall apply to any Material Intellectual Property.

Section 9.03. Fundamental Changes and Acquisitions. Each Obligor will not, and will not permit any of its Subsidiaries to:

(a) enter into or consummate any transaction of merger, amalgamation, plan of arrangement, or consolidation, including without limitation, a reverse-triangular merger, or other similar transaction or series of related transactions;

(b) liquidate, wind up or dissolve itself (or suffer any liquidation, wind up or dissolution) (including in connection with any division or plan of division under Delaware law or any comparable event under a different jurisdiction's laws), except to implement the Convertible Notes Funding Actions and as permitted by Section 9.03(c)(iv); and

(c) make or consummate any Acquisition or sell or issue any Disqualified Equity Interests except, in each case:

(i) Investments permitted under Section 9.05;

(ii) Permitted Acquisitions for (A) an aggregate cash consideration not to exceed \$2,500,000 and (B) total consideration not to exceed \$5,000,000, in each case, for the duration of this Agreement;

(iii) the merger, amalgamation, plan of arrangement, or consolidation of any Obligor with or into any other Obligor, *provided* that if a Borrower is a party to such merger, amalgamation, plan of arrangement, or consolidation, such Borrower shall be the surviving entity;

(iv) the merger, amalgamation, plan of arrangement, or consolidation of any Immaterial Foreign Subsidiary with or into any other Immaterial Foreign Subsidiary; and

(v) the liquidation, winding up or dissolution of the Subsidiaries listed in Schedule 9.03, any Immaterial Foreign Subsidiary and the Luxembourg Subsidiary.

Section 9.04. Lines of Business.

(a) Each Obligor will not, and will not permit any of its Subsidiaries to, engage to any material extent in any business other than the business engaged in on the date hereof by such Obligor, or a business reasonably related, incidental or complementary thereto or reasonable extensions thereof.

(b) Parent shall not have any material liabilities (other than liabilities to other Obligors and liabilities arising under the Loan Documents), own any material assets (other than Investments in its Subsidiaries) or engage in any material operations or business (other than the ownership of its Subsidiaries, exercising its rights and performing its obligations under (i) the Loan Documents, (ii) its obligations to other Obligors and (iii) Investments in Subsidiaries and activities reasonably incident to (i), (ii) and (iii)).

(c) U.S. Holdings shall not have any material liabilities (other than liabilities to other Obligors and liabilities arising under the Loan Documents), own any material assets (other than Investments in its Subsidiaries) or engage in any material operations or business (other than the ownership of its Subsidiaries, exercising its rights and performing its obligations under (i) the Loan Documents, (ii) its obligations to other Obligors and (iii) Investments in Subsidiaries and activities reasonably incident to (i), (ii) and (iii)).

Section 9.05. Investments. Each Obligor will not, and will not permit any of its Subsidiaries to, make, directly or indirectly, or permit to remain outstanding any Investments except:

- (a) Investments outstanding on the date hereof and identified in Schedule 9.05(a) and any modification, replacement, renewal or extension thereof to the extent not involving new or additional Investments;
- (b) operating Deposit Accounts with banks, Securities Accounts and Commodities Accounts;
- (c) extensions of credit in the nature of accounts receivable or notes receivable arising from the sales of goods or services in the Ordinary Course of Business of the relevant Obligor;
- (d) Permitted Cash Equivalent Investments;
- (e) (i) Investments consisting of the ownership of the Equity Interests of its Subsidiaries, (ii) intercompany Investments by an Obligor in any other Obligor or (iii) Investments by the Obligors and its Subsidiaries consisting of 100% of the ownership of the Equity Interests of the Person acquired in connection with a Permitted Acquisition;
- (f) Hedging Agreements entered into in the ordinary course of any Obligor's financial planning solely to hedge interest rate or foreign currency exchange risks (and not, in either case, for speculative purposes);
- (g) Investments consisting of prepaid expenses, negotiable instruments held for collection or deposit, security deposits with utilities, landlords and other like Persons, and deposits in connection with workers' compensation and similar deposits, in each case made in the Ordinary Course of Business;
- (h) Investments received in connection with any Insolvency Proceedings in respect of any customers, suppliers or clients and in settlement of delinquent obligations of, and other disputes with, customers, suppliers or clients;
- (i) Investments permitted under Section 9.01(e), Section 9.01(o) and Section 9.03;
- (j) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the Ordinary Course of Business;

(k) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the Ordinary Course of Business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of the Obligor pursuant to employee stock purchase plans or agreements made after the Closing Date approved by an Obligor's Board in an aggregate amount not to exceed \$250,000 for subclauses (i) and (ii) in any fiscal year;

(l) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Investment and until such time as the Brazilian Subsidiary becomes a "Guarantor" hereunder, and a "Grantor" under the Security Agreement, Investments by an Obligor in the Brazilian Subsidiary in an aggregate amount not to exceed \$1,500,000 in any fiscal year;

(m) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Investment, Investments by Obligor in Immaterial Foreign Subsidiaries (other than the Brazilian Subsidiary), made after the Closing Date, in an aggregate amount not to exceed \$1,000,000 in any fiscal year;

(n) Investments by Immaterial Foreign Subsidiaries in other Immaterial Foreign Subsidiaries;

(o) the Convertible Notes Funding Actions; and

(p) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Investment, or after giving effect thereto, other Investments made after the Closing Date in an amount not to exceed \$500,000 in any fiscal year.

Section 9.06. Restricted Payments. Each Obligor will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, other than:

(a) dividends or distributions with respect to any Equity Interests of Parent payable solely in additional units or shares of its Qualified Equity Interests;

(b) any Restricted Payment by an Obligor or a Subsidiary of an Obligor to an Obligor;

(c) any purchase, redemption, retirement, or other Acquisition by Parent or any of its Subsidiaries units or shares of its Equity Interests with the proceeds received from a substantially concurrent issue of new units or shares of its Equity Interests;

(d) cashless exercises of options and warrants;

(e) repurchases pursuant to the terms of employee stock purchase plans, employee restricted stock agreements, stockholder rights plans, director or consultant stock option plans, or similar plans in an aggregate amount not to exceed \$500,000 in any fiscal year;

(f) the making of cash payments in lieu of the issuance of fractional shares upon the conversion of convertible securities (or in connection with the exercise of warrants or similar securities) not to exceed \$25,000 in any fiscal year;

(g) the issuance of the Warrant Certificate;

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

(i) the Convertible Notes Funding Actions.

Section 9.07. Payments of Indebtedness. Except for the Convertible Notes Funding Actions, each Obligor will not, and will not permit any of its Subsidiaries to, make any payments in respect of any Material Indebtedness other than (a) payments of the Obligations and (b) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, (i) scheduled payments of other Permitted Indebtedness and repayment of intercompany Indebtedness permitted in reliance upon Section 9.01(e) (subject in each case to any subordination agreement entered into in connection therewith), (ii) repayment and discharge of the obligations under AIB Facility 1, AIB Facility 2 and AIB Facility 4, and (iii) regularly scheduled payments of interest on the Outstanding Convertible Notes and the repayment in full of the principal amount of the Outstanding Convertible Notes.

Section 9.08. Change in Fiscal Year. Each Obligor will not change the last day of its fiscal year from that in effect on the date hereof, without prior written notice to the Administrative Agent, except to change the fiscal year of a Subsidiary acquired in connection with a Permitted Acquisition to conform its fiscal year to that of Parent.

Section 9.09. Sales of Assets, Etc. Each Obligor will not, and will not permit any of its Subsidiaries to, sell, lease, exclusively license (in terms of geography or field of use), as a licensor, transfer (including in connection with any division or plan of division under Delaware law or any comparable event under a different jurisdiction's laws) or otherwise dispose of any of its Property (including accounts receivable and Equity Interests of Subsidiaries), or forgive, release or compromise any amount owed to any Obligor or any of its Subsidiaries, in each case, in one transaction or series of transactions (any thereof, an "Asset Sale"), except:

(a) transfers of cash in the Ordinary Course of Business for equivalent value;

- (b) sales or leases of inventory in the Ordinary Course of Business;
- (c) the forgiveness, release or compromise of any amount owed to any Obligor or any of its Subsidiaries in the Ordinary Course of Business;
- (d) entering into, or becoming bound, by a Permitted License to the extent not otherwise prohibited by this Agreement;
- (e) development and other collaborative arrangements where such arrangements provide for the license or disclosure of Patents, Trademarks, Copyrights or other Intellectual Property rights of any Obligor or any of its Subsidiaries in the Ordinary Course of Business and consistent with general market practices; *provided* that (i) such licenses must be true licenses that do not result in a legal transfer of title of the licensed Property or otherwise constitute sales transactions in substance and (ii) the aggregate amount of such periodic payments to the Obligors and its Subsidiaries in any fiscal year shall not exceed \$500,000;
- (f) a sale, lease, exclusive license, transfer or other disposition (including by way of abandonment, cancellation or trade-in) of any Property that is obsolete, worn out, surplus or no longer used or useful in connection with the business of the Obligors and its Subsidiaries or with respect to which a newer and improved version is available;
- (g) dispositions resulting from Casualty Events;
- (h) any transaction permitted under Section 9.02, 9.03, 9.05, 9.10 and 9.20;
- (i) a sale, transfer or other disposition (including by way of abandonment, cancellation or trade-in) of any Property of an Immaterial Foreign Subsidiary in connection with the liquidation, wind up or dissolution of such Immaterial Foreign Subsidiary;
- (j) so long as no Default or Event of Default shall have occurred and is continuing at the time of such Asset Sale, or after giving effect thereto, Asset Sales of other property not to exceed \$3,000,000 in the aggregate per fiscal year; and
- (k) the Convertible Notes Funding Actions.

Section 9.10. Transactions with Affiliates. Each Obligor will not, and will not permit any of its Subsidiaries to, sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except:

- (a) transactions between or among the Obligors;
- (b) any transaction permitted under Section 9.01, 9.03, 9.05, 9.06 or 9.09;

(c) customary compensation and indemnification of, and other employment arrangements with, directors, officers and employees of any Obligor in the Ordinary Course of Business;

(d) transactions upon fair and reasonable terms that are no less favorable to any Obligor than would be obtained in a comparable arm's-length transaction with a Person not an Affiliate;

(e) the transactions set forth on Schedule 9.10; and

(f) the Bray Leases.

Section 9.11. Restrictive Agreements. Each Obligor will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any Restrictive Agreement other than (a) restrictions and conditions imposed by Law or by the Loan Documents, (b) Restrictive Agreements listed on Schedule 7.15, (c) any stockholder agreement or investor rights agreement, or other Organizational Documents of an Obligor as in effect on the date hereof or (d) limitations associated with Permitted Liens or with any transaction permitted under Section 9.01, 9.03, 9.05, 9.06 or 9.09.

Section 9.12. Organizational Documents, Material Agreements.

(a) Each Obligor will not enter into any amendment to or modification of any Organizational Document without the prior written consent of the Administrative Agent.

(b) Each Obligor will not (i) enter into any material waiver, amendment or modification of any Material Agreement (including, but not limited to, any amendments to provisions relating to pricing and term) that would be reasonably expected to adversely affect the Lenders in any material respect or (ii) take or omit to take any action that results in the termination of, or permits any other Person to terminate, any Material Agreement or Material Intellectual Property that would be reasonably expected to have a Material Adverse Effect, without, in each case, the prior written consent of the Administrative Agent, such consent not to be unreasonably withheld or delayed.

(c) Each Obligor will not enter into any amendment to or modification of the Bray Leases, which is less favorable to the Obligors, without the prior written consent of the Administrative Agent.

(d) Other than to effectuate the transactions pursuant to Section 6.02(l), each AIB Credit Party will not enter into any amendment to or modification of the AIB Facilities Letter or AIB Facility 3 without the prior written consent of the Administrative Agent.

Section 9.13. [Reserved].

Section 9.14. Sales and Leasebacks. Except as permitted by Section 9.01(h), each Obligor will not, and will not permit any of its Subsidiaries to, become liable, directly or indirectly, with respect to any lease, whether an operating lease or a Capital Lease Obligation, of any Property (whether real, personal, or mixed), whether now owned or hereafter acquired, (i) which any Obligor or such Subsidiary has sold or transferred or is to sell or transfer to any other Person and (ii) which any Obligor or such Subsidiary intends to use for substantially the same purposes as Property which has been or is to be sold or transferred.

Section 9.15. Hazardous Material. Each Obligor will not, use, generate, manufacture, install, treat, release, store or dispose of any Hazardous Material, except in compliance with all applicable Environmental Laws or where the failure to comply would not reasonably be expected to result in a Material Adverse Change.

Section 9.16. Accounting Changes. Except as required or permitted by IFRS, each Obligor will not make any significant change in accounting treatment without the consent of the Lenders, such consent not be unreasonably withheld or delayed.

Section 9.17. Compliance with ERISA. No ERISA Affiliate of any Obligor shall cause (a) any event that would result in the imposition of a Lien with respect to any Title IV Plan or Multiemployer Plan or (b) any other ERISA Event that would, in the aggregate, have a Material Adverse Effect. No Obligor shall cause or suffer to exist any event that could result in the imposition of a Lien with respect to any Benefit Plan that would have a Material Adverse Effect.

Section 9.18. Deposit Accounts. Each Obligor will not establish or maintain any bank account (other than an Excluded Account) that is not a Controlled Account and will not deposit proceeds in a bank account that is not a Controlled Account (other than an Excluded Account).

Section 9.19. Outbound Licenses. Each Obligor will not enter into or become bound by any outbound license or agreement for use of such Obligor's Intellectual Property unless such outbound license or agreement is a Permitted License.

Section 9.20. Inbound Licenses. Each Obligor will not enter into or become bound by any inbound license or agreement (other than Permitted Licenses) for aggregate consideration paid for all such inbound licenses entered into pursuant to this Section 9.20 in excess of \$2,500,000 per fiscal year unless (a) no Default has occurred and is continuing and (b) if the license or agreement is with an Obligor, such Obligor has taken such commercially reasonable actions as the Administrative Agent may reasonably request to obtain the consent of, or waiver by, any Person whose consent or waiver is necessary for the Administrative Agent to be granted a valid and perfected security interest in such license or agreement and to allow the Administrative Agent to fully exercise its rights under any of the Loan Documents in the event of a disposition or liquidation of the rights, assets or property that is the subject of such license or agreement. The Administrative Borrower shall provide written notice to the Administrative Agent of the material terms of such license or agreement with a description of its anticipated and projected impact on such Person's business or financial condition.

Section 9.21. Non-Commingling. Each Obligor will not commingle its funds or assets with those of any other entity, other than the Obligors, which is an Affiliate of such entity.

Section 9.22. Canadian Defined Benefit Pension Plans. Each Obligor will not contribute to, administrate, maintain, terminate, or underfund a Canadian Defined Benefit Pension Plan.

ARTICLE 10

EVENTS OF DEFAULT

Section 10.01. Events of Default. Each of the following events shall constitute an “*Event of Default*”:

- (a) the Borrowers shall fail to pay any principal on the Term Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for mandatory prepayment thereof or otherwise; or
- (b) any Obligor shall fail to pay any Obligation (other than an amount referred to in Section 10.01(a)) when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days; or
- (c) any representation or warranty made by or on behalf of an Obligor or any of its Subsidiaries (as applicable) in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, shall: (i) prove to have been incorrect when made or deemed made to the extent that such representation or warranty contains any materiality or Material Adverse Effect qualifier; or (ii) prove to have been incorrect in any material respect when made or deemed made to the extent that such representation or warranty does not otherwise contain any materiality or Material Adverse Effect qualifier; or
- (d) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in Sections 8.01(a)-(d), 8.02(a) and (b), 8.03(a) (with respect to such Obligor’s existence), 8.10, 8.11, 8.13, 8.15, 8.16, 8.17, 8.18, 8.19, or Article 9; or

(e) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in Section 8.01 (other than in clauses (a)-(d)) and 8.02 (other than in clauses (a) and (b)), and, in the case of any failure that is capable of cure, such failure shall continue unremedied for a period of ten (10) or more days; or

(f) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 10.01(a), (b), (d) or (e)) or any other Loan Document, and, in the case of any failure that is capable of cure, such failure shall continue unremedied for a period of thirty (30) or more days; or

(g) any Obligor shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness (other than with respect to Item 4 in Schedule 7.13A, so long as such non-payment is subject to a bona fide dispute contested in good faith by appropriate proceedings and for which such Obligor has set aside on its books adequate reserves with respect thereto substantially in accordance with IFRS), when and as the same shall become due and payable after giving effect to any applicable grace or cure period as originally provided by the terms of such Indebtedness; or

(h) (i) any material breach of, or “event of default” or similar event under, the Contract governing any Material Indebtedness shall occur and such breach or “event of default” or similar event shall continue unremedied, uncured or unwaived after a period of five (5) Business Days after the expiration of any cure period thereunder, or (ii) any event or condition occurs (A) that results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; *provided* that this Section 10.01(h) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the Property securing such Material Indebtedness; or

(i) any Obligor:

(i) generally does not or becomes unable to pay its debts or meet its liabilities as the same become due, or admits in writing its inability to pay its debts generally, or declares any general moratorium on its Indebtedness, or proposes a compromise or arrangement or deed of company arrangement between it and any class of its creditors; or

(ii) shall (A) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any United States federal, state, provincial, territorial, Canadian federal, or other foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (B) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 10.01(j), (C) apply for or consent to the appointment of a receiver, receiver and manager, interim receiver, manager, liquidator, trustee, custodian, sequestrator, conservator or similar official for an Obligor or for a substantial part of its assets, (D) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (E) make a general assignment for the benefit of creditors or (F) take any action for the purpose of effecting any of the foregoing; or

(j) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of an Obligor or its debts, or of a substantial part of its assets, under any United States federal, state, provincial, territorial, Canadian federal, or other foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, receiver and manager, interim receiver, manager, liquidator, trustee, custodian, sequestrator, conservator or similar official for an Obligor or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$1,000,000 (excluding any amounts covered by insurance as to which the applicable carrier has accepted coverage) shall be rendered against any Obligor or any combination thereof and the same shall remain undischarged for a period of forty-five (45) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Obligor to enforce any such judgment; or

(l) (i) an ERISA Event shall have occurred that, in the reasonable opinion of the Lenders, when taken together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect or (ii) the institution of any steps by any Obligor or any applicable regulatory authority to terminate a Canadian Pension Plan if such termination would reasonably be expected to have a Material Adverse Effect; or

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

(n) a Key Person Event shall have occurred; or

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

(p) (i) any Lien created by any of the Security Documents shall at any time not constitute a valid and perfected Lien in favor of the Administrative Agent on Collateral with an aggregate value in excess of \$1,000,000, free and clear of all other Liens (other than Permitted Liens) except due to the action or inaction of the Administrative Agent or any Lender(s), (ii) except for expiration in accordance with its terms and except due to the action or inaction of the Administrative Agent or any Lender(s), the Security Documents or any Guarantee of any of the Obligations shall for whatever reason cease to be in full force and effect, or (iii) any of the Security Documents or any Guarantee of any of the Obligations, or the enforceability thereof, shall be repudiated or contested by any Obligor; or

(q) any injunction, whether temporary or permanent, shall be rendered against any Obligor that prevents the Obligors from selling or manufacturing any Product that has a Material Adverse Effect; or

(r) (i) the FDA or any other Governmental Authority (A) issues a letter or other communication asserting that any Product lacks a required Product Authorization (other than the revocation of any emergency use authorization), including in respect of CE marks or 510(k)s or (B) initiates enforcement action against, or issues a warning letter with respect to, any Obligor, or any of their Products or the manufacturing facilities therefor, that causes any Obligor thereof to discontinue marketing or withdraw any of its Products, or causes a delay in the manufacture of any of its Products, which discontinuance, withdrawal or delay would reasonably be expected to last for more than ninety (90) days, (ii) any Permit relating to any Product (including all Product Authorizations), or any of the Obligors' material rights or interests thereunder, is terminated, adversely amended or otherwise determined to be ineffective in any manner materially adverse to any of the Obligors, in each case, for more than ninety (90) days, (iii) there is a recall of any Product in any territory in the case of (i) or (ii) that would reasonably be expected to result in a loss of revenue equal to at least \$3,000,000 over the twelve (12) month period following such event or (iv) any Obligor thereof enters into a settlement agreement with the FDA or any other Governmental Authority that results in aggregate liability as to any single or related series of transactions, incidents or conditions, in excess of \$3,000,000 and such settlement remains unpaid past the payment date therefor.

Section 10.02. Remedies.

(a) Upon the occurrence of any Event of Default, then, and in every such event (other than an Event of Default described in Section 10.01(i) or (j)), and at any time thereafter during the continuance of such event, the Majority Lenders may, by notice to the Administrative Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Term Loan then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Term Loan so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations, shall become due and payable immediately (in the case of the Term Loan, at the Redemption Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(b) Upon the occurrence of any Event of Default described in Section 10.01(i) or (j), the Commitments shall automatically terminate and the principal amount of the Term Loan then outstanding, together with accrued interest thereon and all fees and other Obligations, shall automatically become due and payable immediately (in the case of the Term Loan, at the Redemption Price therefor), without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(c) If any Lender collects any money or property pursuant to this Article 10, they shall pay out the money or property in the order set forth in Section 4.01(b).

Section 10.03. Prepayment Premium and Redemption Price. For the avoidance of doubt, the Prepayment Premium (as a component of the Redemption Price) shall be due and payable at any time the Term Loan becomes due and payable prior to the Stated Maturity Date for any reason, whether due to acceleration pursuant to the terms of this Agreement (in which case it shall be due immediately, upon the giving of notice to the Administrative Borrower in accordance with Section 10.02(a), or automatically, in accordance with Section 10.02(b)), by operation of law or otherwise (including, without limitation, on account of any bankruptcy filing). In view of the impracticability and extreme difficulty of ascertaining the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such acceleration, and by mutual agreement of the parties as to a reasonable estimation and calculation of the lost profits or damages of the Lenders, and any Prepayment Premium shall be due and payable upon such date. Each Obligor hereby waives any defense to payment, whether such defense may be based in public policy, ambiguity, or otherwise. The Obligors and the Lenders acknowledge and agree that any Prepayment Premium due and payable in accordance with this Agreement shall not constitute unmaturing interest, whether under Section 502(b)(2) of the Bankruptcy Code or otherwise. Each Obligor further acknowledges and agrees, and waives any argument to the contrary, that payment of such amount does not constitute a penalty or an otherwise unenforceable or invalid obligation.

ARTICLE 11

GUARANTEE

Section 11.01. The Guarantee. The Guarantors hereby jointly and severally guarantee to the Administrative Agent and each Lender, and their respective successors and assigns, the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the principal of and interest on the Term Loan, all fees and other amounts and Obligations from time to time owing to the Administrative Agent and any Lender by the Borrowers under this Agreement or under any other Loan Document and by any other Obligor under any of the Loan Documents, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the “*Guaranteed Obligations*”). The Guarantors hereby further jointly and severally agree that if the Borrowers shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

Section 11.02. Obligations Unconditional. The Obligations of the Guarantors under Section 11.01 are irrevocable, continuing, absolute and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the obligations of the Borrowers under this Agreement or any other agreement or instrument referred to herein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable Law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or Guarantor, it being the intent of this Section 11.02 that the Obligations of the Guarantors hereunder shall be absolute and unconditional, joint and several, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder, which shall remain absolute and unconditional as described above:

- (a) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;
- (b) any of the acts mentioned in any of the provisions of this Agreement or any other agreement or instrument referred to herein shall be done or omitted;
- (c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect (including, without limitation, any modification, supplement, or amendment that results in any increase in the Guaranteed Obligations, any change in the interest or fees payable, any renewal, extension, amendment, rescission, waiver, release, discharge, indulgence, compromise, arrangement, or any other variation in connection with the Guaranteed Obligations, any Loan Document, or any other agreement), or any right under this Agreement or any other agreement or instrument referred to herein shall be waived or any other Guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;
- (d) any Lien or security interest granted to, or in favor of, any Lender as security for any of the Guaranteed Obligations shall fail to be perfected or otherwise be taken, exchanged, substituted, varied, released, impaired, or subordinated;
- (e) any Guarantee of the Guaranteed Obligations shall be taken, released, impaired, amended, waived or otherwise modified;
- (f) any of the Guaranteed Obligations, any Loan Document, or any related agreement, security, or instrument shall be illegal, invalid or unenforceable for any reason whatsoever;

- (g) any Collateral or other assets shall be sold or disposed, and/or the proceeds of such sale or disposition applied, to satisfy all or part of the Guaranteed Obligations;
- (h) any of the security or Collateral held for the Guaranteed Obligations shall lose or diminish in value, whether such loss or diminution arises from any act or omission of the Administrative Agent or any Lender;
- (i) there shall be any Default, failure, or delay, willful or otherwise, in the payment and/or performance of the Guaranteed Obligations;
- (j) there shall be any change, restructuring or termination of the corporate structure, ownership or existence of any Obligor or any of its Subsidiaries or any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligor or its assets or any resulting restructuring, compromise, release or discharge of any Guaranteed Obligations;
- (k) there shall be any failure of any of the Administrative Agent or any Lender to disclose to any Obligor any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of any other Obligor, or any other information now or hereafter known to the Administrative Agent or such Lender;
- (l) any person shall fail to execute or deliver this Agreement (including the Guarantee in this Article 11) or any other Guarantee or agreement or the release or reduction of liability of any Obligor or surety with respect to the Guaranteed Obligations;
- (m) any of the Administrative Agent or any Lender shall fail to assert any claim or demand or to exercise or enforce any right or remedy under the provisions of any Loan Document or otherwise;
- (n) any Obligor shall assert any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, such against any of the Administrative Agent or any Lender; or
- (o) any other circumstance (including, without limitation, any statute of limitations) or manner of administering the Guaranteed Obligations shall exist or occur, or any of the Administrative Agent or any Lender shall rely on any representation, in each case, that might vary the risk of any Obligor or otherwise operate as a defense available to, or a legal or equitable discharge of, any Obligor or surety.

The Guarantors hereby expressly waive diligence, presentment, demand of payment, demand for performance, protest, dishonor, promptness, presentment, default, acceleration, and all notices whatsoever (including, without limitation, notice of non-performance and notice of acceptance), and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against the Borrowers under this Agreement or any other agreement or instrument referred to herein, or against any other Person under any other Guarantee of, or security for, any of the Guaranteed Obligations. Without limiting the generality of the foregoing, the Administrative Agent and the Lenders may resort to the Guarantors for payment and performance of the Guaranteed Obligations whether or not the Administrative Agent and the Lenders shall have resorted to any Collateral therefor or shall have proceeded against any Borrower or any other Obligors or guarantors with respect to the Guaranteed Obligations. The Administrative Agent and the Lenders may, at their option, proceed against the Guarantors and the Borrowers, jointly and severally, or against one or more Guarantors only without having obtained a judgment against any Borrower.

Section 11.03. Reinstatement. The obligations of the Guarantors under this Article 11 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of the Borrowers in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Guarantors jointly and severally agree that they will indemnify the Administrative Agent and each Lender on demand for all reasonable costs and expenses (including reasonable fees of counsel) incurred by such Persons in connection with such rescission or restoration, including any such reasonable costs and expenses incurred in defending against any Claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar Law.

Section 11.04. Subrogation. The Guarantors hereby jointly and severally agree that, until the payment and satisfaction in full of all Guaranteed Obligations (other than the Warrant Obligations and inchoate indemnity obligations) and the expiration and termination of the Commitments, they shall not exercise any right or remedy arising by reason of any performance by them of their Guarantee in Section 11.01, whether by subrogation or otherwise, against the Borrowers or any other guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

Section 11.05. Remedies. The Guarantors jointly and severally agree that, as between the Guarantors, on one hand, and the Lenders, on the other hand, the obligations of the Borrowers under this Agreement and under the other Loan Documents may be declared to be forthwith due and payable as provided in Article 10 (and shall be deemed to have become automatically due and payable in the circumstances provided in Article 10) for purposes of Section 11.01 notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against the Borrowers and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by the Borrowers) shall forthwith become due and payable by the Guarantors for purposes of Section 11.01.

Section 11.06. Instrument for the Payment of Money. Each Guarantor hereby acknowledges that the Guarantee in this Article 11 constitutes an instrument for the payment of money, and consents and agrees that each Lender, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to proceed by motion for summary judgment in lieu of complaint pursuant to N.Y. Civ. Prac. L&R § 3213.

Section 11.07. Continuing Guarantee. The Guarantee in this Article 11 is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising. Without limiting the generality of the foregoing, the Guarantors hereby unconditionally and irrevocably waive any right to revoke this Guarantee in this Article 11 and acknowledge that the Guarantee in this Article 11 is continuing in nature, shall guarantee any ultimate balance owing to any of the Administrative Agent or any Lender, and applies to all presently existing and future Guaranteed Obligations, until the complete, irrevocable and indefeasible payment and satisfaction in full of the Guaranteed Obligations. The Guarantee in this Article 11 shall continue to apply to all Guaranteed Obligations owing to the Administrative Agent and the Lenders by any entity resulting from any Obligor merging, amalgamating, or otherwise entering into any other business combination transaction with one or more other entities.

Section 11.08. Rights of Contribution. The Guarantors hereby agree, as between themselves, that if any Guarantor shall become an Excess Funding Guarantor (as defined below) by reason of the payment by such Guarantor of any Guaranteed Obligations, each other Guarantor shall, on demand of such Excess Funding Guarantor (but subject to the next sentence), pay to such Excess Funding Guarantor an amount equal to such Guarantor's Pro Rata Share (as defined below and determined, for this purpose, without reference to the properties, debts and liabilities of such Excess Funding Guarantor) of the Excess Payment (as defined below) in respect of such Guaranteed Obligations. The payment obligation of a Guarantor to any Excess Funding Guarantor under this Section 11.08 shall be subordinate and subject in right of payment to the prior payment in full of the obligations of such Guarantor under the other provisions of this Article 11 and such Excess Funding Guarantor shall not exercise any right or remedy with respect to such excess until payment and satisfaction in full of all of such obligations.

For purposes of this Section 11.08, (a) "*Excess Funding Guarantor*" means, in respect of any Guaranteed Obligations, a Guarantor that has paid an amount in excess of its Pro Rata Share of such Guaranteed Obligations, (b) "*Excess Payment*" means, in respect of any Guaranteed Obligations, the amount paid by an Excess Funding Guarantor in excess of its Pro Rata Share of such Guaranteed Obligations and (c) "*Pro Rata Share*" means, as of the date of determination, for any Guarantor, the ratio (expressed as a percentage) of (i) the amount by which the aggregate present fair saleable value of all properties of such Guarantor (excluding any shares of stock of any other Guarantor) exceeds the amount of all the debts and liabilities of such Guarantor (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of such Guarantor hereunder and any obligations of any other Guarantor that have been guaranteed by such Guarantor) to (ii) the amount by which the aggregate fair saleable value of all properties of all of the Guarantors exceeds the amount of all the debts and liabilities (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of the Borrowers and the Guarantors hereunder and under the other Loan Documents) of all of the Guarantors, determined (A) with respect to any Guarantor that is a party hereto on the Closing Date, as of such date, and (B) with respect to any other Guarantor, as of the date such Guarantor becomes a Guarantor hereunder.

Section 11.09. General Limitation on Guarantee Obligations. In any action or proceeding involving any provincial, territorial, foreign or state corporate Law, or any state, federal, provincial, territorial, or foreign bankruptcy, insolvency, reorganization or other Law affecting the rights of creditors generally, if the obligations of any Guarantor under Section 11.01 would otherwise, taking into account the provisions of Section 11.08, be held or determined to be void, invalid or unenforceable, or subordinated to the Claims of any other creditors, on account of the amount of its liability under Section 11.01, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, the Administrative Agent, the Lenders or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the Claims of other creditors as determined in such action or proceeding.

Section 11.10. Irish Limitation on Guarantee Obligations. The obligations of each Irish Obligor under Section 11.01 shall be deemed not to be undertaken or incurred to the extent the same would:

- (a) constitute unlawful financial assistance prohibited by section 82 of the Companies Act 2014 of Ireland; or
- (b) constitute a breach of section 239 of the Companies Act 2014 of Ireland,

provided that (in the case of both (a) and (b) above), for the avoidance of doubt, to the extent that any such obligations under Section 11.01 have been validated by a summary approval procedure in accordance with the Companies Act 2014 of Ireland, they shall not constitute unlawful financial assistance under the said section 82 or a breach of the said section 239 (as applicable).

ARTICLE 12

ADMINISTRATIVE AGENT

Section 12.01. Appointment. Each of the Lenders hereby irrevocably appoints Perceptive to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article 12 are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrowers nor any other Obligor will have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 12.02. Rights as a Lender. The Person serving as the Administrative Agent hereunder will have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term “Lender” or “Lenders” will, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity to the extent such Person is a Lender. The Lenders acknowledge and agree that such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrowers, the other Obligor or any other Subsidiaries or Affiliates of the Obligor as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 12.03. Exculpatory Provisions.

(a) The Administrative Agent will not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder are administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) will not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) will not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Majority Lenders (or such other number or percentage of the Lenders as will be expressly provided for herein or in the other Loan Documents); *provided* that the Administrative Agent will not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including any action that may be in violation of the automatic stay under any Insolvency Proceeding; and

(iii) will not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and will not be liable for the failure to disclose, any information relating to the Obligor or any of its Subsidiaries or Affiliates, that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent will not be liable for any action taken or not taken by it (i) with the consent or at the request of the Majority Lenders (or such other number or percentage of the Lenders as will be necessary, or as the Administrative Agent believes in good faith will be necessary, under the circumstances), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Administrative Agent will be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrowers or a Lender.

(c) The Administrative Agent will not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article 6 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 12.04. Reliance by Administrative Agent. The Administrative Agent will be entitled to rely upon, and will not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and will not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of the Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent has received notice to the contrary from such Lender prior to the making of the Term Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and will not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 12.05. Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory provisions of this Article 12 will apply to any such sub-agent and to the Affiliates of the Administrative Agent and any such sub-agent, and will apply to their respective activities in connection with the syndication of the facility as well as activities as Administrative Agent. The Administrative Agent will not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 12.06. Resignation of Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Administrative Borrower, which notice shall set forth the effective date of such resignation (the “*Resignation Effective Date*”), such date not to be earlier than the thirtieth (30th) day following the date of such notice. The Majority Lenders and the Administrative Borrower shall mutually agree upon a successor to the Administrative Agent. If the Majority Lenders and the Administrative Borrower are unable to so mutually agree and no successor shall have been appointed within twenty-five (25) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may (but will not be obligated to), on behalf of the Lenders, appoint a successor Administrative Agent it shall designate (in its reasonable discretion after consultation with the Borrowers and the Majority Lenders). Whether or not a successor has been appointed, such resignation will become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date (i) the retiring Administrative Agent will be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent will continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (ii) except for any indemnity payments owed to the retiring Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent will instead be made by or to each Lender directly, until such time, if any, as the Majority Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor will succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Administrative Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent), and the retiring Administrative Agent will be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrowers to a successor Administrative Agent will be the same as those payable to its predecessor unless otherwise agreed between the Administrative Borrower and such successor. After the retiring Administrative Agent’s resignation hereunder and under the other Loan Documents, the provisions of this Article 12 and Sections 13.03 and 13.06 will continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Section 12.07. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates and based on such documents and information as it will from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 12.08. Administrative Agent May File Proofs of Claim. In case of the pendency of any Insolvency Proceeding or any other judicial proceeding relative to the Borrowers, the Administrative Agent (irrespective of whether the principal of the Term Loan will then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent has made any demand on the Borrowers) will be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file and prove a Claim for the whole amount of the principal and interest owing and unpaid in respect of the Term Loan and all other Obligations that are owing and unpaid hereunder or under any other Loan Document and to file such other documents as may be necessary or advisable in order to have the Claims of the Lenders and the Administrative Agent (including any Claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under this Agreement or any other Loan Document) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such Claims and to distribute the same.

Any custodian, receiver, receiver and manager, interim receiver, manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make any payments of the type described above in this Section 12.08 to the Administrative Agent and, in the event that the Administrative Agent consents to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under this Agreement or any other Loan Document.

Section 12.09. Collateral and Guaranty Matters; Appointment of Collateral Agent.

(a) Without limiting the provisions of Section 12.08, the Lenders irrevocably agree as follows:

(i) the Administrative Agent is authorized, at its option and in its discretion, to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (A) on the date when all Obligations have been satisfied in full in cash (other than Warrant Obligations and contingent obligations as to which no Claims have been asserted), (B) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under the Loan Documents, or (C) subject to Sections 13.01 and 13.04, if approved, authorized or ratified in writing by the Majority Lenders; and

(ii) the Administrative Agent is authorized, at its option and discretion, to release any Guarantor, from its obligations hereunder if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by the Administrative Agent at any time, each Lender will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Collateral, or to release any Guarantor from its obligations under its guaranty pursuant to this Section 12.09.

(b) The Administrative Agent will not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Obligor in connection therewith, nor will the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(c) Each Lender hereby appoints the Administrative Agent as its collateral agent under each of the Security Documents and agrees that, in so acting, the Administrative Agent will have all of the rights, protections, exculpations, indemnities and other benefits provided to the Administrative Agent under this Agreement, and hereby authorizes and directs the Administrative Agent, on behalf of such Lender and all Lenders, without the necessity of any notice to or further consent from any of the Lenders, from time to time to (i) take any action with respect to any Collateral or any Security Document which may be necessary to perfect and maintain perfected the Liens on the Collateral granted pursuant to any such Security Document or protect and preserve the Administrative Agent's ability to enforce the Liens or realize upon the Collateral, (ii) act as collateral agent for each Lender for purposes of acquiring, holding, enforcing and perfecting all Liens created by the Loan Documents and all other purposes stated therein, (iii) enter into intercreditor or subordination agreements, as the case may be, in connection with Indebtedness permitted pursuant to Sections 9.01(e), (iv) enter into non-disturbance or similar agreements in connection with licensing agreements and arrangements permitted by this Agreement and the other Loan Documents and (v) otherwise to take or refrain from taking any and all action that the Administrative Agent shall deem necessary or advisable in fulfilling its role as collateral agent under any of the Security Documents.

ARTICLE 13

MISCELLANEOUS

Section 13.01. No Waiver. No failure on the part of the Administrative Agent or the Lenders to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under any Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by Law.

Section 13.02. Notices. All notices, requests, instructions, directions and other communications provided for herein (including any modifications of, or waivers, requests or consents under, the Loan Documents) shall be given or made in writing (including by telecopy or electronic mail) delivered, if to the Administrative Borrower, another Obligor, the Administrative Agent or the Lenders, to its address specified on Schedule 2 hereto or its Guarantee Assumption Agreement, as the case may be, or at such other address as shall be designated by such party in a notice to the other parties. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given upon receipt of a legible copy thereof, in each case given or addressed as aforesaid. All such communications provided for herein by telecopy or electronic mail shall be confirmed in writing promptly after the delivery of such communication (it being understood that non-receipt of written confirmation of such communication shall not invalidate such communication).

Section 13.03. Expenses, Indemnification, Etc.

(a) *Expenses.* Each Obligor agrees to pay or reimburse (i) the Administrative Agent and the Lenders for all of their reasonable and documented out of pocket costs and expenses (including the reasonable and documented fees and expenses of Chapman and Cutler LLP, counsel to the Administrative Agent) in connection with (A) the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents on the Closing Date; *provided* that, such fees shall be credited against the Expense Deposit paid by Parent, (B) the negotiation, preparation, execution and delivery of the other Loan Documents on the Funding Date and the making of the Term Loan (inclusive of post-closing costs but exclusive of post-funding costs), (C) post-funding costs and (D) the discussions regarding, and the negotiation or preparation of, any amendment, modification, supplement or waiver of any of the terms of this Agreement or any of the other Loan Documents (whether or not documented or consummated, including the reasonable fees and expenses of legal counsel) and (ii) the Administrative Agent and the Lenders for all of their reasonable and documented out of pocket costs and expenses (including the reasonable fees and expenses of legal counsel) in connection with any enforcement or collection proceedings resulting from the occurrence of an Event of Default.

(b) *Indemnification.* Each Obligor hereby indemnifies the Administrative Agent, the Lenders, their respective Affiliates, and their respective directors, officers, employees, attorneys, agents and advisors (each, an “*Indemnified Party*”) from and against, and agrees to hold them harmless against, any and all Claims and Losses of any kind (including reasonable fees and disbursements of counsel), joint or several, that is incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to any investigation, litigation or proceeding or the preparation of any defense with respect thereto arising out of or in connection with or relating to this Agreement or any of the other Loan Documents or the Transactions or any use made or proposed to be made with the proceeds of the Term Loan, whether or not such investigation, litigation or proceeding is brought by an Obligor, any of its shareholders or creditors, an Indemnified Party or any other Person, or an Indemnified Party is otherwise a party thereto, and whether or not any of the conditions precedent set forth in Article 6 are satisfied or the other Transactions contemplated by this Agreement are consummated, except to the extent such Claim or Loss is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from any Indemnified Party’s gross negligence or willful misconduct. No Obligor shall assert any Claim against any Indemnified Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the Transactions or the actual or proposed use of the proceeds of the Term Loan. This Section shall not apply to Taxes other than Taxes relating to a non-Tax Claim or Loss governed by this Section 13.03(b).

Section 13.04. Amendments, Etc. Except as otherwise expressly provided in this Agreement, any provision of this Agreement or any other Loan Document (except for the Warrant Certificate and Fee Letter, which may be amended, modified, waived or supplemented in accordance with the terms thereof) may be amended, modified, waived or supplemented only by an instrument in writing signed by the Borrowers, the Administrative Agent and the Majority Lenders; *provided that*:

(a) no amendment, waiver or consent shall, unless in writing and signed by all of the Lenders, do any of the following at any time:

(i) change the number of Lenders or the percentage of (A) the Commitments or (B) the aggregate unpaid principal amount of the Term Loan that, in each case, shall be required for the Lenders or any of them to take any action hereunder (including pursuant to any change to the definition of “*Majority Lenders*”);

(ii) release one or more Guarantors (or otherwise limit such Guarantors’ liability with respect to the Obligations owing to the Lenders under the Guarantees) if such release or limitation is in respect of all or substantially all of the value represented by the Guarantees to the Lenders;

(iii) release, or subordinate the Lenders' Liens in, all or substantially all of the Collateral in any transaction or series of related transactions (other than in connection with any sale of Collateral permitted herein); or

(iv) amend any provision of this Section 13.04;

(b) no amendment, waiver or consent shall, unless in writing and signed by each Lender specified below for such amendment, waiver or consent:

(i) increase the Commitments of a Lender without the consent of such Lender;

(ii) reduce the principal of, or stated rate of interest on, or any Prepayment Premium payable on, the Term Loan owed to a Lender or any fees or other amounts stated to be payable hereunder or under the other Loan Documents to such Lender without the consent of such Lender;

(iii) postpone any date scheduled for any payment of principal of, or interest on, the Term Loan, any date scheduled for payment or for any date fixed for any payment of fees hereunder (excluding the due date of any mandatory prepayment of the Term Loan), in each case payable to a Lender without the consent of such Lender;

(iv) change the order of application of prepayment of the Term Loan from the application thereof set forth in the applicable provisions of Section 4.01(b) in any manner that adversely affects the Lenders without the consent of holders of a majority of the Commitments or Term Loan outstanding or otherwise change any provision requiring the pro rata distributions hereunder among the Lenders without all Lenders' consent; or

(v) modify Section 2.02 without the consent of each Lender directly and adversely affected thereby.

Section 13.05. Successors and Assigns.

(a) *General.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) no Obligor may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (and any attempted assignment or transfer by such Obligor without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (e) of this Section) and, to the extent expressly contemplated hereby, the Indemnified Parties of the Lenders) any legal or equitable right, remedy or Claim under or by reason of this Agreement.

(b) *Amendments to Loan Documents; Majority Lender Vote.* Each of the Lenders and the Obligors agrees to enter into such amendments to the Loan Documents, and such additional Security Documents and other instruments and agreements, in each case in form and substance reasonably acceptable to the Lenders and the Obligors, as shall reasonably be necessary to implement and give effect to any assignment made by any Lender (or any direct or indirect assignee thereof) from time to time under this Section 13.05.

(c) *Assignments by Lenders.*

(i) Subject to the conditions set forth in paragraph (c)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Assignee) all or a portion of its rights and obligations under the Loan Documents (including all or a portion of its Commitment and the Term Loan at the time owing to it) (A) with the prior written consent (such consent not to be unreasonably withheld) of the Administrative Agent and (B) so long as no Default shall have occurred and is continuing, upon notice to the Administrative Borrower; *provided* that no consent of the Administrative Agent nor notice to the Administrative Borrower shall be required for an assignment of any Commitment or of all or any portion of the Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Term Loan, the amount of the Commitment or Term Loan of the assigning Lender subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$500,000, unless the Administrative Agent otherwise consents;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents; and

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement in form and substance reasonably satisfactory to Administrative Agent.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (d) of this Section, from and after the effective date specified in each Assignment Agreement, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Lender under the Loan Documents, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under the Loan Documents (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto). Any assignment or transfer by a Lender of rights or obligations under the Loan Documents that does not comply with this Section 13.05 shall be treated for purposes of the Loan Documents as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (e) of this Section.

(d) *Register.* The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrowers, shall maintain at one of its offices a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Term Loan owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice. No assignment shall be effective for purposes of this Agreement unless (i) it has been recorded in the Register as provided in this paragraph and (ii) any written consent to such assignment required by paragraph (b) of this Section has been obtained.

(e) *Participations.* Any Lender may at any time, without the consent of, or notice to, the Borrowers, sell participations to any Person (a "*Participant*"), other than a natural person, in all or a portion of such Lender's rights and obligations under the Loan Documents (including all or a portion of its Commitment and the Term Loan owing to it); *provided* that (i) such Lender's obligations under the Loan Documents shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers shall continue to deal solely and directly with such Lender in connection therewith.

(f) Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that would (i) increase or extend the term of such Lender's Commitment, (ii) extend the date fixed for the payment of principal of or interest on the Term Loan or any portion of any fee hereunder payable to the Participant, (iii) reduce the amount of any such payment of principal, or (iv) reduce the rate at which interest is payable thereon to a level below the rate at which the Participant is entitled to receive such interest. The Borrowers agree that each Participant shall be entitled to the benefits of Section 5.03 (subject to the requirements and limitations therein, including the requirements under Section 5.03(f) (it being understood that the documentation required under Section 5.03(f) shall be delivered to the Borrowers and the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.05(a), *provided* that such Participant (A) agrees to be subject to the provisions of Section 5.03(h) as if it were an assignee under Section 13.05(a); and (B) shall not be entitled to receive any greater payment under Section 5.03, with respect to any participation, than its participating Lender would have been entitled to receive, unless the sale of the participation to such Participant is made with the Administrative Borrower's prior written consent. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 4.04(a) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, 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 Loan or other obligations under the Loan Documents (the "*Participant Register*"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(g) *Certain Pledges.* Subject to Section 13.05(c), the Lenders may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement and any other Loan Document to secure obligations of the Lenders, including any pledge or assignment to secure obligations to a Federal Reserve Bank or another central bank; *provided* that no such pledge or assignment shall release the Lenders from any of their obligations hereunder or substitute any such pledgee or assignee for the Lenders as a party hereto.

Section 13.06. Survival. The obligations of the Borrowers under Sections 5.01, 5.02, 5.03, 13.03, 13.05, 13.09, 13.10, 13.11, 13.12, 13.13, 13.14, 13.15 and Article 11 (solely to the extent guaranteeing any of the obligations under the foregoing Sections) shall survive the repayment of the Obligations and the termination of the Commitments and, in the case of any Lender's assignment of any interest in the Commitments or the Term Loan hereunder, shall survive, in the case of any event or circumstance that occurred prior to the effective date of such assignment, the making of such assignment, notwithstanding that such Lenders may cease to be a "Lender" hereunder. In addition, each representation and warranty made, or deemed to be made by a notice of the Term Loan, herein or pursuant hereto shall survive the making of such representation and warranty.

Section 13.07. Captions. The table of contents and captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

Section 13.08. Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic transmission (in PDF or DocuSign format) shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 13.09. GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN THE CANADIAN SECURITY AGREEMENT, IRISH DEBENTURE AND ANY OTHER LOAN DOCUMENTS WHICH ARE SPECIFICALLY GOVERNED BY THE LAWS OF ANOTHER JURISDICTION), THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER, AND ALL CLAIMS, DISPUTES AND MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS EXECUTED IN AND TO BE PERFORMED ENTIRELY WITHIN THAT STATE, WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

Section 13.10. JURISDICTION, SERVICE OF PROCESS AND VENUE.

(a) *SUBMISSION TO JURISDICTION.* EACH OBLIGOR AGREES THAT ANY SUIT, ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT TO WHICH IT IS A PARTY OR ANY JUDGMENT ENTERED BY ANY COURT IN RESPECT THEREOF SHALL BE BROUGHT IN THE SUPREME COURT OF THE STATE OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EITHER CASE, SITTING IN NEW YORK COUNTY (EXCEPT, WITH RESPECT TO THE CANADIAN SECURITY AGREEMENT, IRISH DEBENTURE AND ANY OTHER LOAN DOCUMENT, AS OTHERWISE EXPRESSLY PROVIDED THEREIN) AND IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF EACH SUCH COURT FOR THE PURPOSE OF ANY SUCH SUIT, ACTION, PROCEEDING OR JUDGMENT

(b) *Alternative Process.* Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 13.02. Nothing herein shall in any way be deemed to limit the ability of any party to this Agreement to serve any process in any other manner permitted by applicable Law.

(c) *WAIVER OF VENUE, ETC.* EACH OBLIGOR IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT PERMITTED BY SECTION 13.10(A) AND HEREBY FURTHER IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. A FINAL JUDGMENT (IN RESPECT OF WHICH TIME FOR ALL APPEALS HAS ELAPSED) IN ANY SUCH SUIT, ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY COURT TO THE JURISDICTION OF WHICH SUCH OBLIGOR IS OR MAY BE SUBJECT, BY SUIT UPON JUDGMENT.

Section 13.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 13.12. WAIVER OF IMMUNITY. TO THE EXTENT THAT ANY OBLIGOR MAY BE OR BECOME ENTITLED TO CLAIM FOR ITSELF OR ITS PROPERTY OR REVENUE ANY IMMUNITY ON THE GROUND OF SOVEREIGNTY OR THE LIKE FROM SUIT, COURT JURISDICTION, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF A JUDGMENT OR EXECUTION OF A JUDGMENT, AND TO THE EXTENT THAT IN ANY SUCH JURISDICTION THERE MAY BE ATTRIBUTED SUCH AN IMMUNITY (WHETHER OR NOT CLAIMED), SUCH OBLIGOR HEREBY IRREVOCABLY AGREES NOT TO CLAIM AND HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

Section 13.13. Entire Agreement. This Agreement and the other Loan Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Each Obligor acknowledges, represents and warrants that in deciding to enter into this Agreement and the other Loan Documents or in taking or not taking any action hereunder or thereunder, it has not relied, and will not rely, on any statement, representation, warranty, covenant, agreement or understanding, whether written or oral, of or with the Lenders other than those expressly set forth in this Agreement and the other Loan Documents.

Section 13.14. Severability. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable Law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

Section 13.15. No Fiduciary Relationship. The Administrative Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the “Lenders”), may have economic interests that conflict with those of the Obligors, their stockholders or equity holders and/or their Affiliates (collectively, solely for purposes of this paragraph, the “Obligors”). The Obligors acknowledge that the Lenders have no fiduciary relationship with, or fiduciary duty to, any Obligor arising out of or in connection with this Agreement or the other Loan Documents, and the relationship between each Lender and each Obligor are solely that of creditors and debtors. This Agreement and the other Loan Documents do not create a joint venture among the parties.

Section 13.16. USA Patriot Act. The Administrative Agent and the Lenders hereby notify the Obligors that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”) and 31 C.F.R. § 1010.230 (the “Beneficial Ownership Regulation”), they are required to obtain, verify and record information that identifies the Obligors, which information includes the name and address of each Obligor and other information that will allow the Administrative Agent and such Lender to identify each Obligor in accordance with the Act and Beneficial Ownership Regulation, including a beneficial ownership certification in form and substance acceptable to the Administrative Agent.

Section 13.17. Treatment of Certain Information; Confidentiality. The Lenders agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed to (a) its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, agents, trustees, advisors and representatives (collectively, “Representatives”) (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as FINRA or the National Association of Insurance Commissioners) or any exchange, (c) to the extent required by the applicable Laws or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those in this Section 13.17, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrowers or any Guarantor and its obligation, (g) with the consent of the Borrowers or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 13.17 or (ii) becomes available to the Lender, or any of its respective Representatives on a nonconfidential basis from a source other than the Borrowers or any other Obligor. For purposes of this Section 13.17, “Information” means all information received from an Obligor relating to such Obligor or its Subsidiary or any of their respective businesses, except that the term “Information” shall not include, and the Lenders shall not be subject to any confidentiality obligation with respect to any information that (A) is or becomes available to the Lender or any of its Representatives on a nonconfidential basis prior to disclosure by an Obligor or its Subsidiary, (B) becomes available to a Lender or any of its Representatives after disclosure by an Obligor or its Subsidiary from a source that, to the knowledge of such Lender, is not subject to a confidentiality obligation to such Obligor or Subsidiary (C) is or becomes publicly available other than as a result of a breach by such Lender, or (D) is developed by a Lender or any of its Representatives. Any Person required to maintain the confidentiality of Information as provided in this Section 13.17 shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

In the case of any Lender that has elected to receive material non-public information pursuant to Section 8.02, such Lender acknowledges that (x) the Information may include material non-public information concerning an Obligor or its Subsidiary, as the case may be, (y) it has developed compliance procedures regarding the use of material non-public information and (z) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

Section 13.18. Releases of Guarantees and Liens.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, each Lender agrees, and the Administrative Agent is hereby irrevocably authorized by each Lender and given a limited power of attorney by each Lender to perform the actions described hereafter in this Section 13.18 (without requirement of notice to or consent of any Lender except as expressly required by Section 13.04) to take any action reasonably requested by the Borrowers having the effect of releasing any Collateral or Obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to by the Lenders or (ii) under the circumstances described in paragraph (b) below.

(b) At such time as the Term Loan and the other Obligations (other than the inchoate indemnity obligations and Warrant Obligations) under the Loan Documents shall have been paid in full in cash and the Commitments have been terminated, the Collateral shall be released from the Liens created by the Security Documents, and the Security Documents and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Obligor under the Security Documents shall terminate, all without delivery of any instrument or performance of any act by any Person.

Section 13.19. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 13.20. Judgment Currency.

(a) The obligations of any Obligor under this Agreement and the other Loan Documents to make payments in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any currency other than Dollars, except to the extent that such tender or recovery results in the effective receipt by the Administrative Agent or Lender of the full amount of Dollars expressed to be payable to the Administrative Agent or such Lender under this Agreement or the other Loan Documents. If, for the purpose of obtaining or enforcing a judgment against any Obligor in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than Dollars (such other currency, the “*Judgment Currency*”) an amount due in Dollars, the conversion shall be made at the rate of exchange quoted by the Administrative Agent, determined, in each case, as of the Business Day immediately preceding the day on which the judgment is given (such Business Day, the “*Judgment Currency Conversion Date*”).

(b) If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, each Obligor covenants and agrees to pay, or cause to be paid, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the actual date of payment, will produce the amount of Dollars that could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

(c) For purposes of determining any rate of exchange for this Section 13.20, such amounts shall include any premium and costs payable in connection with the purchase of Dollars.

Section 13.21. Administrative Borrower. Each Borrower hereby designates U.S. Holdings as the administrative Borrower (in such capacity, the "*Administrative Borrower*") to act as its representative and agent on its behalf, for the purposes of giving instructions with respect to the disbursement of the proceeds of the Term Loan, giving and receiving all notices and consents hereunder or under any of the other Loan Documents and taking all other actions on behalf of each Borrower under the Loan Documents. The Administrative Agent and each Lender may regard any notice or other communication pursuant to any Loan Document from U.S. Holdings in its capacity as Administrative Borrower as a notice or communication from each Borrower. Each warranty, covenant, agreement and undertaking made on behalf of each Borrower by U.S. Holdings in its capacity as Administrative Borrower for the Borrowers shall be deemed for all purposes to have been made by each Borrower and shall be binding upon and enforceable against each Borrower to the same extent as it if the same had been made directly by each Borrower. Such appointment shall remain in full force and effect unless and until the Administrative Agent shall have received written notice signed by each Borrower terminating such appointment. Borrowers shall have the right, to appoint another Borrower as the Administrative Borrower with the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed). It is understood that the handling of the loan account and Collateral of the Borrowers in a combined fashion, as more fully set forth herein, is done solely as an accommodation to the Borrowers in order to utilize the collective borrowing powers of the Borrowers in the most efficient and economical manner and at their request, and that neither the Administrative Agent nor the Lenders shall incur liability to the Borrowers as a result hereof. Each Borrower expects to derive benefit, directly or indirectly, from the handling of the loan account and the Collateral in a combined fashion since the successful operation of each Borrower is dependent on the continued successful performance of the integrated group. To induce the Administrative Agent and the Lenders to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify the Administrative Agent and hold each Indemnified Party harmless against any and all liability, expense, loss or claim of damage or injury, made against such Indemnified Party by any Borrower or by any third party whosoever, arising from or incurred by reason of (a) the handling of the loan account and Collateral of the Borrowers as herein provided, (b) the Administrative Agent and the Lenders relying on any instructions of the Administrative Borrower, or (c) any other action taken by the Administrative Agent or any Lender hereunder or under the other Loan Documents.

Section 13.22. Joint and Several Liability of Borrowers.

(a) Each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Administrative Agent and the Lenders under the Loan Documents, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the Borrowers to accept joint and several liability for the Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and conditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrower, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 13.22), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrower will make such payment with respect to, or perform, such Obligation until such time as all of the Obligations are paid in full.

(d) The Obligations of each Borrower under the provisions of this Section 13.22 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 13.22(d)) or any other circumstances whatsoever.

(e) Except as otherwise expressly provided in this Agreement, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of any Loans, notice of the occurrence of any Default, Event of Default, or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by the Administrative Agent or the Lenders under or in respect of any of the Obligations, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement). Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by the Administrative Agent or the Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by the Administrative Agent or the Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of the Administrative Agent or a Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which would, but for the provisions of this Section 13.22 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 13.22, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the Obligations of each Borrower under this Section 13.22 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each Borrower under this Section 13.22 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other Borrower or the Administrative Agent or a Lender.

(f) Each Borrower represents and warrants to the Administrative Agent and the Lenders that such Borrower is currently informed of the financial condition of the Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower further represents and warrants to the Administrative Agent and the Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of the other Borrower's financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) The provisions of this Section 13.22 are made for the benefit of the Administrative Agent and each Lender, and their successors and assigns, and may be enforced by it or them from time to time against any or all of the Borrowers as often as occasion therefor may arise and without requirement on the part of the Administrative Agent or each Lender, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy. The provisions of this Section 13.22 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by the Administrative Agent or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower, or otherwise, the provisions of this Section 13.22 will forthwith be reinstated in effect, as though such payment had not been made.

(h) Each Borrower hereby agrees that it will not enforce any of its rights of contribution or subrogation against the other Borrower with respect to any liability incurred by it hereunder or under any of the other Loan Documents, any payments made by it to the Administrative Agent or the Lenders with respect to any of the Obligations or any collateral security therefor until such time as all of the Obligations have been paid in full in cash. Any claim which the Administrative Agent or a Lender may have against any Borrower with respect to any payments to the Administrative Agent or any Lender hereunder are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full in cash of the Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any Borrower therefor.

(i) Each Borrower hereby agrees that after the occurrence and during the continuance of any Default or Event of Default, such Borrower will not demand, sue for or otherwise attempt to collect any Indebtedness of any other Borrower owing to such Borrower until the Obligations shall have been paid in full in cash. If, notwithstanding the foregoing sentence, such Borrower shall collect, enforce or receive any amounts in respect of such Indebtedness, such amounts shall be collected, enforced and received by such Borrower as trustee for the Administrative Agent, and such Borrower shall deliver any such amounts to the Administrative Agent for application to the Obligations in accordance with this Agreement.

[Remainder of the Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BORROWERS:

TRINITY BIOTECH, INC.

FITZGERALD INDUSTRIES INTERNATIONAL, INC.

CLARK LABORATORIES, INC. (D/B/A TRINITY BIOTECH
(USA))

BIOPOOL U.S., INC. (D/B/A TRINITY BIOTECH
DISTRIBUTION)

PRIMUS CORPORATION

IMMCO DIAGNOSTICS, INC.

MARDX DIAGNOSTICS, INC.

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: President

[Signature Page to Credit Agreement and Guaranty - Borrowers]

TRINITY BIOTECH PLC

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

TRINITY RESEARCH LIMITED

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

TRINITY BIOTECH FINANCIAL SERVICES LIMITED

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

BENEN TRADING LIMITED

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

TRINITY BIOTECH MANUFACTURING LIMITED

By: /s/ John Gillard
Name: John Gillard
Title: Director

TRINITY BIOTECH MANUFACTURING SERVICES LIMITED

By: /s/ John Gillard
Name: John Gillard
Title: Director

[Signature Page to Credit Agreement and Guaranty - Guarantors]

TRINITY BIOTECH (JOINT VENTURE) LIMITED

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

PHOENIX BIO-TECH CORP.

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Director

IMMCO DIAGNOSTICS (CANADA) INC.

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Chief Executive Officer

NOVA CENTURY SCIENTIFIC INC.

By: /s/ Ronan O’Caoimh
Name: Ronan O’Caoimh
Title: Chief Executive Officer

[Signature Page to Credit Agreement and Guaranty - Guarantors]

PERCEPTIVE CREDIT HOLDINGS III, LP
as Administrative Agent and Lender

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

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

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

[Signature Page to Credit Agreement and Guaranty - Administrative Agent/Lender]

EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT (this “**Agreement**”) is made as of December , 2021 by and between Trinity Biotech Investment Limited, as Issuer (the “**Company**”), Trinity Biotech Plc, as Guarantor (the “**Parent**”), and [], (the “**Holder**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them set forth in the Indenture, dated as of April 9, 2015 (the “**Indenture**”), by and among the Company, the Parent and Wilmington Trust, National Association, as Trustee (the “**Trustee**”).

RECITALS:

WHEREAS, the Holder is owner of 4% Exchangeable Senior Notes, due 2045 in the principal amount of \$[] (the “**Notes**”), pursuant to the terms of the Indenture;

WHEREAS, the Company, the Parent and Holder wish to agree, notwithstanding anything to the contrary in the Indenture, to a negotiated private exchange (the “**Exchange**”) and prepayment of the Notes, pursuant to which (i) the Company shall make a cash payment in the amount of \$[], plus accrued and unpaid interest on the Notes through, and including, the calendar day immediately prior to the Exchange Date, to the Holder (the “**Cash Amount**”), and (ii) the Parent shall issue and deliver to the Holder [] American Depositary Shares (“**ADSs**”) (each representing 4 ‘A’ ordinary shares, par value \$0.0109 of Parent (the “**Ordinary Shares**”)) (the “**Share Consideration**” and together with the Cash Amount, the “**Negotiated Exchange Consideration**”), in connection with such exchange and prepayment;

WHEREAS, Holder is willing to accept an exchange and prepayment of the Notes by the Company and the Parent in the amount and form of the Negotiated Exchange Consideration (defined above), on and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Parent and certain of its subsidiaries are in the process of negotiating and concluding a form of credit facility (the “**Credit Facility**”) to be provided by, among others, Perceptive Credit Holdings III, LP, as Administrative Agent and as a Lender (together with its successors and assigns (the “**Lenders**”), the drawdown (the “**Drawdown**”) of which facility shall be conditional on, among other things, the approval by a requisite majority of the Parent’s shareholders at a general meeting of such shareholders of (among other things) the issuance of the Share Consideration, the issuance of a warrant to subscribe for ADSs to be delivered to the Lenders pursuant to the terms of the Credit Facility, a general authority to issue Ordinary Shares, in each case without the application of Irish statutory pre-emption rights, and an increase in the authorized share capital of the Parent (each approval required of the shareholders of the Parent under the terms of the Credit Facility the “**Requisite Approvals**”);

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Negotiated Exchange and Payoff.

(a) Notwithstanding anything to the contrary (but subject to Section 1(b) below), the parties agree that, subject to (i) satisfaction of the conditions precedent set forth in Sections 4 and 5 of this Agreement and (ii) and the Parent obtaining the Requisite Approvals, on the third Nasdaq trading date following the date of the Requisite Approvals (the “**Exchange Date**”) and in exchange for delivery of the Notes via DTC to the account notified by the Company to Holder at least two (2) trading days prior to the Exchange Date, (x) the Company shall pay the Cash Amount to Holder by wire transfer of immediately available funds to the account notified by Holder to the Company at least two (2) trading days prior to the Exchange Date and (y) the Company shall cause the Parent to issue and deliver the Share Consideration to Holder via DWAC to the account notified by Holder to the Parent and the Company at least two (2) trading days prior to the Exchange Date. The Company shall pay-up the Ordinary Shares representing the Share Consideration (including any Convertible Instrument ADSs (as hereinafter defined), or procure that such Ordinary Shares (including any Convertible Instrument ADSs) are paid-up by another non-Irish subsidiary of the Parent, in full in cash, including, if applicable, any additional paid in capital (so as to be validly issued for the purposes of the requirements of the Irish Companies Act 2014).

(b) If on the Exchange Date, the number of Ordinary Shares underlying the ADSs then beneficially owned by the Holder and its affiliates and any other persons or entities whose beneficial ownership of Ordinary Shares would be aggregated with Holder's for purposes of Section 13(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**") (including Ordinary Shares held by any "group" of which the holder is a member, but excluding Ordinary Shares beneficially owned by virtue of the ownership of securities or rights to acquire securities that have limitations on the right to exchange, exercise or purchase similar to the limitation set forth herein) would exceed 9.99% of the total number of Ordinary Shares then issued and outstanding (any ADSs which are not deliverable as a result of this restriction, "**Excess ADSs**"), the delivery of any ADSs that would constitute Excess ADSs shall not be made. In lieu of delivery of the Excess ADSs, the Parent shall deliver a fully paid convertible instrument on the Exchange Date (the "**Convertible Instrument**") on terms and conditions satisfactory to the Holder providing for the right to receive, for no consideration other than exchange or conversion of such convertible instrument, fully paid ADSs that are Freely Tradable (as defined below) on Nasdaq in equal number to the Excess ADSs (the "**Convertible Instrument ADSs**"). The Convertible Instrument shall contain limitations on the right to exchange or exercise substantially similar to the limitations set forth in this Section 1(b)). Subject to the limitations on the right to exchange or exercise contained therein, the Convertible Instrument shall provide that the Holder will have the right to exchange or exercise the Convertible Instrument for Convertible Instrument ADSs upon delivery of written notice to Parent two (2) trading days' prior to the requested exchange or exercise date. For purposes of this Section 1(b), "group" has the meaning set forth in Section 13(d) of the Exchange Act and applicable regulations of the SEC, and the percentage held by such holder will be determined in a manner consistent with the provisions of Section 13(d) of the Exchange Act. Upon the written request of the Holder, the Parent will, within two (2) trading days, confirm orally and in writing to such Holder the number of Ordinary Shares then outstanding, including by virtue of any prior conversion or exercise or exchange of convertible or exercisable or exchangeable securities into Ordinary Shares or ADSs, including, without limitation, pursuant to this Agreement. Upon request by the Company, Holder shall, within two (2) trading days, certify to the Company how many Ordinary Shares are beneficially owned by Holder for determining compliance with this Section 1(b). Notwithstanding anything to the contrary in this Agreement, any amendment to this Section 1(b) (or any amendment to this Agreement that would have the effect of amending this Section 1(b)) will not be effective until the 61st day after execution of such amendment.

(c) Provided that (i) no default by either the Parent, Company or Holder has occurred under this Agreement and (ii) the Parent and the Company have otherwise timely complied with their obligations in Section 1(a) and Section 1(b), Holder agrees that the payment and delivery by the Parent and the Company to Holder of the Negotiated Exchange Consideration (including the Convertible Instrument) shall serve as full satisfaction of the Company's and the Parent's obligations to the Holder hereunder. The Share Consideration delivered to Holder shall be issued without a securities law restrictive legend and shall be Freely Tradable by the Holder on Nasdaq. For the purposes of Section 1(b), this Section 1(c) and Section 2(f) below, "**Freely Tradable**" means that (a) the ADSs constituting the Share Consideration have been cleared and approved for public resale by the compliance departments of Holder's brokerage firm and the clearing firm servicing such brokerage, and (b) such ADSs are held in the name of the clearing firm servicing Holder's brokerage firm on an unrestricted basis and have been deposited into such clearing firm's account for the benefit of Holder.

(d) Following receipt by the Trustee of the Notes by DWAC on the Exchange Date, the Company will promptly take all steps necessary to cancel the Notes.

2. Representations and Warranties of the Parent and the Company. The Parent and the Company represent and warrant to the Holder on the date hereof, the Exchange Date, and each day falling between the date hereof and the Exchange Date that:

(a) Organization and Qualification. The Parent and the Company are each entities duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Parent nor the Company is in violation or default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents.

(b) The Company. All of the outstanding shares of capital stock of the Company are owned by the Parent, free and clear of all liens, and none of the outstanding shares of the Company are subject to any outstanding option, warrant, right of conversion or purchase of any similar right. The Company's sole purpose is the issuance of securities, the net proceeds of which are utilized by the Parent or other wholly-owned subsidiaries of the Parent, and the Company does not have material assets or material liabilities other than those associated with financing the business of the Parent and its subsidiaries.

(c) Authorization; Enforcement. The execution of this Agreement has been duly and validly authorized on behalf of the Company and the Parent and, subject to obtaining the Requisite Approvals and Drawdown, the execution and delivery of this Agreement by the Company and the Parent and the consummation by them of the transactions contemplated hereby and thereby (including the issuance of all Share Consideration) constitutes the valid, binding and enforceable obligations of the Company and the Parent in accordance with their terms, and no further action is required in connection herewith or therewith other than the Requisite Approvals. This Agreement has been duly executed by the Company and the Parent and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company and the Parent enforceable against the Company and the Parent in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally; (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) Other Notes. Over 99% of the notes constituted under the Indenture are subject to an agreement in form and substance substantially identical to this Agreement (collectively, the “**Other Exchange Agreements**”), each of which contemplates a simultaneous settlement with the Exchange on the Exchange Date;

(e) Credit Facility. The execution of the Credit Facility and the transactions contemplated thereby have been duly and validly authorized on behalf of the Parent and each of its subsidiaries party thereto, and the Credit Facility has been duly executed and delivered by the Company and each of its subsidiaries party thereto in accordance with the terms thereof. The execution and delivery of the Credit Facility by the Parent and each of its subsidiaries party thereto and the consummation by them of the transactions contemplated thereby constitute the valid, binding and enforceable obligations of the Parent and its subsidiaries in accordance with their terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally; (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law. Other than the Requisite Approvals, the Drawdown does not require the consent or approval of any Person. Following the Drawdown, the Company will have all funds necessary to pay the Cash Amount and the Parent and the Company will have all funds necessary to pay all other amounts payable in connection with the consummation of the Exchange.

(f) Issuance of Share Consideration. When issued, the Ordinary Shares underlying the ADSs comprising the Share Consideration will be duly authorized, validly issued, fully paid, non-assessable, free of pre-emptive or similar rights, and, free and clear of all options, contracts, agreements, liens, security interests, or other encumbrances. The receipts evidencing the ADSs comprising the Share Consideration will be duly authorized, validly issued, fully paid, non-assessable, free of pre-emptive or similar rights, and, free and clear of all options, contracts, agreements, liens, security interests, or other encumbrances upon deposit of the related shares of Ordinary Shares with the depository in accordance with the applicable depository agreement. Upon issuance in accordance herewith, the issuance by the Company of the Share Consideration shall be exempt from the registration requirements of the Securities Act of 1933, as amended (the “**Securities Act**”), and all of the ADSs comprising the Share Consideration will be freely transferable and Freely Tradable by the Holder without restriction pursuant to Rule 144 of the Securities Act. The ADSs comprising the Share Consideration shall not bear any restrictive or other legends or notations.

(g) No Conflicts. Subject to the Parent obtaining the Requisite Approvals, the execution, delivery and performance by the Parent and the Company of this Agreement, the issuance of the Share Consideration, the Drawdown under the Credit Facility and payment of the Cash Amount, and the consummation by the Parent and the Company of the transactions contemplated hereby and thereby do not and will not (i) conflict with, violate or result in a breach of any provision of, or constitute a default under, or result in the termination of or accelerate the performance required by, or result in a right of termination or acceleration under, (A) the articles of association or memorandum of association of the Company, (B) the articles of association or memorandum of association of the Parent, (C) the Credit Facility, (D) the applicable depository agreement with the depository for the ADSs comprising the Share Consideration, (E) any other “material contract” (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC) to which the Parent or any of its subsidiaries is a party and was filed or was required to be filed with the United States Securities and Exchange Commission, or (F) any permit, government license, judgment, order, decree, ruling, injunction, statute, law, ordinance, rule or regulation applicable to the Parent or any of its subsidiaries, other than in the cases of clauses (E) and (F) as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect and would not materially affect the Company’s or the Parent’s ability to comply with its obligations under this Agreement; or (ii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Parent or the Company is subject (including federal and state securities laws and regulations), or by which any property or asset of the Parent or the Company is bound or affected.

(h) Acknowledgment Regarding the Exchange. The Company and the Parent have relied upon their own independent analysis of all relevant matters, including, without limitation, the value of the Cash Amount and the Share Consideration, in determining to enter into this Agreement and have not relied upon the representation or warranty of Holder with respect thereto in determining to enter into this Agreement. The Company and the Parent acknowledge and agree that the Holder is acting solely as a principal in the capacity of an arm's length third party with respect to this Agreement and the transactions contemplated hereby.

(i) SEC Reports; Financial Statements. The Parent has filed all reports, schedules, forms, statements and other documents required to be filed by the Parent under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) of the Exchange Act, for the two years preceding the date hereof (or such shorter period as the Parent was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the "**SEC Reports**") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) Filings, Consents and Approvals. Other than the Requisite Approvals, neither the Parent nor the Company is required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or any natural person, firm, partnership, association, corporation, company, trust, business trust or other entity (including Nasdaq) (each, a "**Person**") in connection with the execution, delivery and performance by the Parent and the Company of this Agreement.

(k) Capitalization. Subject to obtaining the Requisite Approvals, no Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by this Agreement. Other than the Notes and awards issued under the Parent's existing equity award plans, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire any Ordinary Shares or ADSs, or contracts, commitments, understandings or arrangements by which the Parent or any subsidiary is or may become bound to issue additional shares of Ordinary Shares or ADSs or any securities of the Parent which would entitle the holder thereof to acquire at any time Ordinary Shares or ADSs, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Ordinary Shares or ADSs. Save for the Requisite Approvals, no further approval or authorization of any stockholder, the Parent's board of directors or others is required for the issuance of the Share Consideration. There are no stockholder agreements or other similar agreements with respect to the Parent's capital stock to which the Parent is a party or, to the knowledge of the Parent, between or among any of the Parent's stockholders.

(l) DTC Eligibility. The Parent, through the depositary, currently participates in the DTC Fast Automated Securities Transfer (FAST) Program and the Share Consideration can be transferred electronically to third parties via the DTC Fast Automated Securities Transfer (FAST) Program.

(m) Material Changes; Undisclosed Events, Liabilities or Developments. Except as set forth in the 6-K Filing, since the respective dates as of which information is disclosed within the SEC Reports as of the date of this Agreement: (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a material adverse effect; (ii) the Parent has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Parent's financial statements pursuant to IFRS or disclosed in filings made with the SEC; (iii) the Parent has not altered its method of accounting; (iv) the Parent has not declared or made any dividend or distribution of cash or other property to its stockholder or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Parent has not issued any equity securities to any officer, director or affiliate, except pursuant to existing stock option plans. The Parent does not have pending any request for confidential treatment of information before the SEC. Except for the issuance of the Share Consideration and the entry into the Credit Facility contemplated by this Agreement, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Parent or any of its subsidiaries or their respective businesses, properties, operations, assets or financial condition, that would be required to be disclosed by the Parent under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least one (1) trading day prior to the date that this representation is made.

(n) Disclosure. Following the filing of the 6-K Filing and the publication of the Press Release, the Parent confirms that neither it nor any other Person acting on its behalf has provided the Holder or its agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Parent confirms that the SEC Reports, taken together with the 6-K Filing, do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Parent understands and confirms that the Holder will rely on the foregoing representations in effecting transactions in securities of the Parent. The Parent and the Company acknowledge and agree that the Holder makes no, nor has made any, representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3 hereof.

3. Representations and Warranties of the Holder. The Holder (including, for the purposes of this Section 3, certain affiliates of the Holder) represents and warrants to the Parent and the Company as of the date hereof that:

(a) Ownership of the Notes. The Holder is the beneficial owner of the Notes. The Holder paid for the Notes, and has continuously held the Notes since their purchase. The Holder owns the Notes outright and free and clear of any options, contracts, agreements, liens, security interests, or other encumbrances.

(b) Authorization; Enforcement. The execution of this Agreement has been duly and validly authorized on behalf of the Holder and constitutes the valid, binding and enforceable obligation of the Holder in accordance with its terms, and no further action is required in connection herewith or therewith. This Agreement has been duly executed by the Holder and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Holder enforceable against the Holder in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally; (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(c) Holder's Status. The Holder is not, and has not been, for a period of at least three months prior to the date of this Agreement a "beneficial owner" of more than 10% of the Parent's capital stock (as defined for purposes of Rule 13d-3 of the Exchange Act).

4. Conditions Precedent to Obligations of the Parent and the Company. The obligation of the Parent and the Company to consummate the transactions contemplated by this Agreement is subject to the satisfaction of each of the following conditions, provided that these conditions are for the Parent and the Company's sole benefit and may be waived by the Parent and the Company at any time in their sole discretion by providing the Holder with prior written notice thereof:

(a) No Prohibition. No order of any court, arbitrator, or governmental or regulatory authority shall be in effect which purports to enjoin or restrain any of the transactions contemplated by this Agreement; and

(b) Representations. The accuracy in all material respects when made of the representations and warranties of the Holder contained herein.

5. Conditions Precedent to Obligations of the Holder. The obligations of the Holder contemplated by this Agreement are subject to the satisfaction of each of the following conditions, as determined in the sole discretion of the Holder, provided that these conditions are for the Holder's sole benefit and may be waived by the Holder at any time in its sole discretion by providing the Parent with written notice thereof:

(a) Nasdaq Listing. The listing of the Company's ADSs on Nasdaq remains in full force and effect;

(b) Cleansing Announcement. The 6-K Filing (as defined below) and Press Release (as defined below) shall have been made in accordance with Section 6 and such materials remain true and accurate and not misleading in any material respect;

(c) Payment of Expenses. The total out-of-pocket expenses of the Holder and the other holders of Notes that are exchanging their Notes on the Exchange Date, not to exceed \$65,000, incurred in connection with the negotiation, evaluation or execution of (i) the Exchange and (ii) this Agreement, including the fees and disbursements of the Holder's legal advisers, shall have been paid or reimbursed (or Holder shall have received evidence satisfactory to it that such amounts shall be deducted out of the Drawdown), to the extent due and payable on or prior to the Exchange Date and invoiced at least two (2) trading days prior to the Exchange Date;

(d) Officer's Certificate. Receipt of a certificate of an officer of the Parent and receipt of a certificate of an officer of the Company, in each case dated as of the date of this Agreement and as of the Exchange Date, confirming the compliance by the Parent and the Company with the applicable conditions precedent set forth in this Section 5 as of such date;

(e) No Prohibition. No order of any court, arbitrator, or governmental or regulatory authority shall be in effect which purports to enjoin or restrain any of the transactions contemplated by this Agreement;

(f) Representations. The representations and warranties of the Parent and the Company (i) shall be true and correct in all material respects when made for such representations and warranties contained herein that are not qualified by "materiality" or "material adverse effect" and (ii) shall be true and correct when made for such representations and warranties contained herein that are qualified by "materiality" or "material adverse effect";

(g) Obligations. All obligations, covenants and agreements of the Parent and the Company required to be performed at or prior to the Exchange Date shall have been performed;

(h) No Litigation. No lawsuit, claim, proceeding or action shall have been commenced or, to the best of the knowledge of the Parent or the Company, threatened with respect to the Exchange or with respect to any of the transactions in connection with, or contemplated by, the Exchange, or this Agreement before any court, agency or other governmental body of any jurisdiction;

(i) No Insolvency Event. No action, steps or legal proceedings shall have been commenced by or against, or, to the best of the knowledge of the Parent and the Company, threatened against, either of them or any subsidiary seeking to adjudicate the Parent or the Company or any subsidiary as bankrupt or insolvent, or seeking liquidation, administration, winding up, reorganization, arrangement, adjustment, protection, moratorium, relief or composition of such entity or its debts or for any similar or analogous proceedings in any jurisdiction, or for such entity to enter into any arrangement or composition for the benefit of creditors, or for the appointment of a custodian, receiver, monitor, trustee or other similar official for such entity; and

(j) No Market Disruption Event or Regulatory Disruption Event. From the date hereof to the Exchange Date, no Market Disruption Event or Regulatory Disruption Event shall have occurred. For the purposes of this Section 5(j), "**Market Disruption Event**" means, in relation to the Ordinary Shares or ADSs, (i) a failure by the relevant trading market to open for trading during its regular trading session or (ii) the occurrence or existence during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant securities exchange or otherwise) or (iii) any other market disruption in respect to any such security or contract, in each case as determined in the sole discretion of the Holder. For the purposes of this Section 5(j), "**Regulatory Disruption Event**" means that Holder has concluded, in its sole discretion, that it is advisable with respect to any legal, regulatory or self-regulatory requirements or related determinations, policies or procedures, for it or its affiliate or agents to refrain from effecting transactions with respect to all or any portion of securities of the Parent.

6. Additional Covenants.

(a) Disclosure. The Parent shall, prior to open of trading on the Nasdaq trading day immediately following the date of this Agreement, file a Current Report on Form 6-K (the “**6-K Filing**”) and issue a press release (the “**Press Release**”), in each case in form and substance satisfactory to the Holder, disclosing all material terms of the transactions contemplated hereby. The 6-K Filing shall attach as exhibits thereto a copy of the Credit Facility and this Agreement, redacted as appropriate to remove the names of Holders or other Holder-specific information. The Parent agrees that the Holder shall not be in possession of any material, nonpublic information received from the Parent or any of its respective officers, directors, employees or agents that is not disclosed in the 6-K Filing. The Parent shall not, and shall cause its officers, directors, employees and agents not to, provide the Holder with any material, nonpublic information regarding the Parent from and after the filing of the 6-K Filing without the express written consent of the Holder. The Parent shall not disclose the name of the Holder in any filing, announcement, release or otherwise, unless such disclosure is required by law or regulation. Other than the Parent’s confidentiality undertaking referenced in the preceding sentence (for the benefit of the Holder), effective upon the filing of the 6-K Filing, the Parent acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Parent, any of its subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and the Holder or any of its affiliates, on the other hand, shall terminate.

(b) Requisite Approvals. The Parent shall use its best efforts to secure the Requisite Approvals as promptly as practicable following the date of this Agreement.

(c) Credit Facility. The Parent shall use its best efforts to cause the Drawdown under the Credit Facility to take place as soon as practicable following the date of this Agreement, but in any event no later than the Exchange Date.

(d) Board Composition. Following the issuance of the Press Release and in any event within four months of the Exchange Date, the Parent will.

(i) appoint an internationally recognized director search firm to find three (3) independent directors with experience, skill and cost appropriate to the Parent for appointment to the board of directors of the Parent (the “**New Independent Directors**”);

(ii) use its best efforts to select and appoint such new directors within four months of the Exchange Date (but in any event shall appoint such new directors no later than six months following the Exchange Date); and

(iii) form a committee of the Board consisting of Ronan O’Caoimh, Clint Severson and James D. Merselis to select the New Independent Directors (the “**Appointment Committee**”).

The Appointment Committee shall consult with and reasonably consider the views of shareholders in selecting and appointing such New Independent Directors (but shall not be bound by any such views) and shall use reasonable efforts to ensure that such New Independent Directors, collectively, have the experience, skill and cost appropriate to the Parent, including, without limitation, that at least one person has substantial public and/or private investment experience, and that one person has substantial experience at a diagnostics testing business having annualized revenues greater than \$1 billion. When considering candidates the Appointment Committee shall take into consideration the need for the Parent to retain its Irish tax status and status as a foreign private issuer under the federal securities laws. At such time as the Appointment Committee has selected three nominees to be appointed as New Independent Directors and has received their acceptance to serve in such capacity, the Parent shall accept the resignations of Kevin Tansley and Dr. Jim Walsh effective from the appointment of the New Independent Directors. Promptly after the election of the New Independent Directors, the Parent will adopt a formal appointment and structured induction process for new directors that is consistent with the terms of the 2018 version of the QCA Corporate Governance Code, to the extent compatible with U.S. Securities and Exchange Commission and Nasdaq Corporate Governance standards applicable to the Parent and the Parent’s existing American Depositary Receipt program.

(e) Corporate Governance. Following the appointment of the New Independent Directors and in any event within six months of the Exchange Date, the Parent will procure that the Board and each of its committees (as applicable) adopt (and maintain in place) the following governance charters (the “**Charters**”):

- (i) Board charter;
- (ii) audit committee charter;
- (iii) remuneration committee charter; and
- (iv) nomination committee charter. To the extent that there is not already a nomination committee the Board shall form one within the six month period following the Exchange Date.

Each Charter shall set out (i) the roles, responsibilities and authorities of the Board or relevant committee (as applicable) and (ii) the composition of the Board or relevant committee (as applicable).

Specifically, the Charters shall provide that:

- (i) the Board shall use its best efforts to ensure that the Board shall at all times consist of seven (7) directors, at least five (5) of whom shall be independent directors;
- (ii) in the event an independent director resigns, or is otherwise unable to continue to serve as a director, the nomination committee shall nominate a successor director for appointment to the Board within six months;
- (iii) in order to be considered ‘independent’ a director must meet the standards set out in the NASDAQ Stock Market Rules; and
- (iv) the remuneration committee shall consist of at least two independent directors.

The Parent shall no later than January 1, 2023, comply with the requirements of and be consistent with the corporate governance requirements of the NASDAQ Stock Market Rules (save that the Parent shall not avail of any derogation permitted to it under NASDAQ Stock Market Rule 5615(a)(3) as a foreign private issuer, provided, that, the Parent may avail itself of derogations permitted to it under NASDAQ Stock Market Rule 5615(a)(3) (x) to continue to follow the existing quorum requirements in its Articles of Association for shareholder meetings, and (y) to the extent failure to avail itself of a derogation permitted to it under NASDAQ Stock Market Rule 5615(a)(3) would be a breach of Irish law.

The independent directors shall annually review the Charters and the corporate governance arrangements set out in Section 6(d) and this Section 6(e) to determine whether they should be updated or amended and shall determine whether the Parent shall avail itself of any exceptions to the corporate governance requirements of the NASDAQ Stock Market Rules as permitted under NASDAQ Stock Market Rule 5615(a)(3) as a foreign private issuer.

7. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

8. Governing Law.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. In addition, each of the parties hereto irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by the other party hereto or its successors or assigns, shall be brought and determined exclusively in the federal district court or state court within New York County. Each of the parties hereto hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the parties hereto hereby irrevocably waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 8(a), (ii) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (iii) to the fullest extent permitted by the applicable law, any claim that (A) the suit, action or proceeding in such court is brought in an inconvenient forum, (B) the venue of such suit, action or proceeding is improper or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. Each of the parties hereby agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth in Section 9 shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby.

(b) EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 8(B).

9. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, sent by overnight courier or sent via email (with receipt confirmed) as follows:

If to Holder, to:

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

If to the Parent and the Company, to: c/o Trinity Biotech plc
IDA Business Park,
Bray Co. Wicklow, Ireland
A98 H5C8

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

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

10. Entire Agreement; Amendment. This Agreement embodies the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior communications, written or oral, with respect hereto. The terms and conditions hereof may not be modified, altered or otherwise amended except by an instrument in writing executed by the Company, the Parent and Holder.

11. No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

12. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors in title and assigns. The Holder may assign some or all of its rights hereunder to any of its affiliates without the consent of the Parent and the Company, in which event such assignee shall be deemed to be the Holder hereunder with respect to such assigned rights.

13. No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

14. Termination. The Holder may terminate this Agreement if (a) there has occurred any breach or withdrawal by the Parent or the Company of any covenant, representation or warranty set forth in Section 1, Section 2, Section 6, or Section 18 or (b) there has been a delay in the delivery of the Share Consideration beyond the Exchange Date. This Agreement shall automatically terminate if the Exchange Date has not occurred on or prior to January 31, 2022.

15. Survival of Provisions. The representations and warranties of the Parent and the Company made in Section 2 and the obligations of the Parent and the Company under Sections 6 and 18, and Sections 1(b), 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, and 19 shall survive the Exchange Date.

16. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

17. Severability. If any provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. Expenses. Whether or not any part of the Exchange is completed, the Parent and the Company jointly and severally agree to promptly pay directly or reimburse the Holder and the other holders of Notes that are exchanging their Notes on the Exchange Date for up to \$65,000 of out-of-pocket expenses incurred in connection with the negotiation, evaluation or execution of (i) the Exchange and (ii) this Agreement, including the fees and disbursements of the Holder's legal advisers.

19. Electronic Signatures. Any signature (including any electronic symbol or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record) hereto or to any other certificate, agreement or document related to this transaction, and any contract formation or record-keeping through electronic means shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any similar state law based on the Uniform Electronic Transactions Act, and the parties hereby waive any objection to the contrary.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto or by their respective duly authorized officers, all as of the date first written above.

Trinity Biotech Investment Limited.

By: _____
Name:
Title:

Trinity Biotech plc

By: _____
Name:
Title:

[_____]

By: _____
Name:
Title:

