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

FORM 10-K

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2021

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____to _____
Commission file number 001-35887

MIMEDX GROUP, INC.

(Exact name of registrant as specified in its charter)

Florida	**26-2792552**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

1775 West Oak Commons Court, NE, Marietta, GA
(Address of principal executive offices)

30062
(Zip Code)

(770) 651-9100
(Registrant's telephone number, including area code)
Securities registered pursuant to Section 12(b) of the Act: None.

Title of each class	**Trading Symbol**	**Name of each exchange on which registered**
Common Stock, par value $0.001 per share	MDXG	The Nasdaq Stock Market LLC

Securities registered pursuant to Section 12(g) of the Act:
None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes o No ☑
Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes o No ☑
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐
Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§223.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☑ No ☐
Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☑	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered accounting firm that prepared or its audit report ☑

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☑

The aggregate market value of the registrant's voting common equity held by non-affiliates of the registrant as of June 30, 2021 (the last business day of the registrant's most recently completed second quarter) was approximately $1,381 million based upon the last sale price ($12.51) of the shares as reported on The Nasdaq Stock Market LLC on such date.

There were 112,359,601 shares of the registrant's common stock, par value $0.001 per share, outstanding as of February 21, 2022.

Documents Incorporated By Reference

Portions of the proxy statement relating to the 2022 Annual Meeting of Shareholders, to be filed within 120 days after the end of the fiscal year to which this report relates, are incorporated by reference in Part III of this Report.

Table of Contents

PART I

Explanatory Note and Important Cautionary Statement Regarding Forward-Looking Statements

As used herein, the terms "MiMedx," "the Company," "we," "our" and "us" refer to MiMedx Group, Inc., a Florida corporation, and its consolidated subsidiaries as a combined entity, except where it is clear that the terms mean only MiMedx Group, Inc.

This Annual Report contains forward-looking statements. All statements relating to events or results that may occur in the future are forward-looking statements, including, without limitation, statements regarding the following:

- our strategic focus, by our current business priorities and our ability to implement these priorities, including as a result of our no longer being able to market our micronized products and certain other products;
- our expectations regarding the sufficiency of our liquidity and existing capital resources to implement our current business priorities;
- our expectations regarding our ability to fund our ongoing and future operating costs;
- our expectations regarding future income tax liability;
- the advantages of our products and development of new products;
- our expectations regarding the size of potential markets for our products and any growth in such markets;
- our expectations regarding the regulatory pathway for our products, including our existing and planned investigative new drug application and pre-market approval requirements; current plans, designs, expected timelines, and expectations for success of our clinical trials; and our expectations regarding timing and receipt of necessary regulatory approvals for certain of our products including Biological License Applications ("***BLAs***");
- our expectations regarding ongoing regulatory obligations and oversight and the changing nature thereof impacting our products, research and clinical programs, and business, including those relating to patient privacy;
- our expectations regarding our ability to manufacture certain of our products in accordance with current Good Manufacturing Practices ("***CGMP***") and in sufficient quantities to meet current and potential demand;
- our expectations regarding costs relating to compliance with regulatory requirements, including those arising from our clinical trials, pursuit of BLAs, and CGMP compliance;
- the likelihood, timing, and scope of possible regulatory approval and commercial launch of our late-stage product candidates and new indications for our products.
- our expectations regarding government and other third-party coverage and reimbursement for our products;
- our expectations regarding future revenue growth;
- our belief in the sufficiency of our intellectual property rights in our technology;
- our expectations regarding our ability to procure sufficient supplies of human tissue to manufacture and process our products;
- the outcome of pending litigation and investigations;
- our expectations regarding the ongoing and future effects arising from the investigation conducted by the Audit Committee (the "**Audit Committee**") of our Board of Directors (the "**Board**") concluded in May 2019 relating to allegations regarding certain sales and distribution practices at the Company and certain other matters (the "**Investigation**" or the "**Audit Committee Investigation**"), the restatement of our consolidated financial statements previously filed in our Annual Report for the year ended December 31, 2016, as well as selected unaudited condensed consolidated financial data as of and for the years ended December 31, 2015 (Restated) and 2014 (Restated), which reflected adjustments to our previously filed consolidated financial statements as of and for the years ended December 31, 2015 and 2014 (collectively, the "**Restatement**"), and related litigation;

- ongoing and future effects arising from the COVID-19 pandemic on our business, employees, suppliers and other third parties with whom we do business, and our responses intended to mitigate such effects;
- demographic and market trends;
- our expectations regarding research and development costs, including those arising from filing additional investigative new drug applications and pursuing new BLAs; and
- our ability to compete effectively.

Forward-looking statements generally can be identified by words such as “expect,” “will,” “change,” “intend,” “seek,” “target,” “future,” “plan,” “continue,” “potential,” “possible,” “could,” “estimate,” “may,” “anticipate,” “to be” and similar expressions. These statements are based on numerous assumptions and involve known and unknown risks, uncertainties and other factors that could significantly affect our operations and may cause our actual actions, results, financial condition, performance or achievements to differ materially from any future actions, results, financial condition, performance or achievements expressed or implied by any such forward-looking statements. Factors that may cause such a difference include, without limitation, those discussed under the heading “*Risk Factors*” in this Annual Report.

Unless required by law, the Company does not intend, and undertakes no obligation, to update or publicly release any revision to any forward-looking statements, whether as a result of the receipt of new information, the occurrence of subsequent events, a change in circumstances or otherwise. Each forward-looking statement contained in this Annual Report is specifically qualified in its entirety by the aforementioned factors. Readers are advised to carefully read this Annual Report in conjunction with the important disclaimers set forth above prior to reaching any conclusions or making any investment decisions and not to place undue reliance on forward-looking statements, which apply only as of the date of the filing of this Annual Report with the SEC.

Estimates and Projections

This discussion includes certain estimates, projections and other statistical data. These estimates and projections reflect management’s best estimates based upon currently available information and certain assumptions we believe to be reasonable. These estimates are inherently uncertain, subject to risks and uncertainties, many of which are not within our control, have not been reviewed by our independent auditors and may be revised as a result of management’s further review. In addition, these estimates and projections are not a comprehensive statement of our financial results, and our actual results may differ materially from these estimates and projections due to developments that may arise between now and the time the results are final. There can be no assurance that the estimates will be realized, and our results may vary significantly from the estimates, including as a result of unexpected issues in our business and operations. Accordingly, you should not place undue reliance on such information. Projections, assumptions and estimates of our future performance and the future performance of the markets in which we operate are necessarily subject to a high degree of uncertainty and risk. See Item 1A — Risk Factors for further information.

Item 1. Business

Overview

MiMedx is a transformational placental biologics company, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, we are focused on addressing unmet clinical needs in the areas of advanced wound care, surgical recovery applications, and musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary methods, including the PURION® process. We employ Current Good Tissue Practices ("***CGTP***"), Current Good Manufacturing Practices ("***CGMP***"), and terminal sterilization to produce our allografts. MiMedx provides products primarily for use in the wound care, burn, and surgical recovery sectors of healthcare. All of our products are regulated by the U.S. Food & Drug Administration ("***FDA"***).

At MiMedx, our vision is to advance regenerative science and innovative biologics that restore quality of life. Our mission is to improve people's health and lives through innovation that makes healing possible. By advancing rigorous science and increasing access to evidence-based regenerative technologies, we elevate the standard of care. Our commitment to the highest quality standards maximizes our potential to reduce cost to the healthcare system and restore quality of life. Character, Customer Orientation, Innovation, Collaboration and Stewardship are our core values.

MiMedx is a leading supplier of human placental allografts, which are human tissues that are derived from one person (the donor) and used to produce products that treat another person (the recipient). MiMedx has supplied over two million allografts, through both direct and consignment shipments. Our primary platform technologies include EPIFIX®, AMNIOFIX®, EPICORD®, and AMNIOCORD®. AMNIOFIX and EPIFIX are our tissue allografts derived from the amnion and chorion layers of the human placental membrane. EPICORD and AMNIOCORD are tissue allografts derived from umbilical cord tissue.

Our EPIFIX and EPICORD products are marketed for external use, such as in advanced wound care applications, while our AMNIOFIX and AMNIOCORD products are positioned for use in surgical recovery applications, including lower extremity repair, plastic surgery, vascular surgery and multiple orthopedic repairs and reconstructions. We describe these in greater detail below under the heading "*Our Product Portfolio.*"

2017 FDA Guidance. The products we sell are regulated by the FDA. Generally, our products are regulated as Human Cells, Tissues and Cellular and Tissue – Based Products ("***HCT/Ps***"), which do not require pre-market clearance or approval by the FDA and are subject solely to Section 361 of the Public Health Service Act ("***Section 361***") and related regulations. However, in November 2017 the FDA published a series of related guidances, including one entitled "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue–Based Products: Minimal Manipulation and Homologous Use – Guidance for Industry and Food and Drug Administration Staff*" (the "***Guidance***"). The Guidance established an updated framework for the FDA's regulation of cellular and tissue-based products. Among other things, the Guidance clarified the FDA's views about the criteria that differentiate those products subject to regulation solely under Section 361 ("***Section 361 HCT/Ps***") from those cellular and tissue-based products considered to be drugs, devices, and/or biological products ("***Section 351 HCT/Ps***") subject to licensure under Section 351 of the Public Health Service Act ("***Section 351***") and related regulations.

Effect of Guidance on Our Products. Under the Guidance, we expect that the FDA will continue to regulate certain of our placental tissue products (EPIFIX, AMNIOFIX, EPICORD, AMNIOCORD and AMNIOBURN) as Section 361 HCT/Ps so long as the claims we make for them are consistent with the Section 361 framework. However, the FDA is now regulating certain of our other products, such as our micronized products (AMNIOFIX Injectable and EPIFIX Micronized, collectively "***mdHACM***" or "***micronized dehydrated human amnion chorion membrane***") and our particulate product (AMNIOFILL), as Section 351 HCT/Ps and/or medical devices.

Enforcement Discretion. Under the Guidance, the FDA exercised enforcement discretion under limited conditions with respect to the Investigational New Drug ("***IND***") application and pre-market approval requirements for certain HCT/Ps through May 31, 2021. We continued to market our micronized products (mdHACM) and our particulate product (AMNIOFILL) under this policy of enforcement discretion in the United States until May 31, 2021, while at the same time pursuing Biologics License Applications ("***BLAs***") for certain of our micronized products in specific clinical applications. After May 31, 2021, we no longer sell our micronized and particulate products in the United States, and do not intend to sell such products in the United States until the FDA grants pre-market approval. As a result, we will only be able to market such products for indications that have been cleared or approved by the FDA. Similarly, we are engaged with the FDA regarding the classification of our umbilical cord products, EPICORD, EPICORD Expandable, and AMNIOCORD, which are tissue allografts derived from the structural, protective covering and extracellular matrix cushioning layers of the umbilical cord. If the FDA makes a final determination that our umbilical cord-derived products do not meet the requirements for regulation solely under Section 361, then the products will require additional pre-market clearance or approval. In 2021, revenues from US sales of our umbilical cord-derived products were $23.6 million. See discussion below – "*Risk Factors*" under the heading "*Certain of our products do not qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act, which has resulted in removal of the applicable products from the market, made the introduction of*

some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future."

Our History

Our current business began on February 8, 2008 when Alynx, Co., our predecessor company, acquired MiMedx, Inc., a development-stage medical device company, the assets of which included licenses to two development-stage medical device technology platforms which we do not currently market. On March 31, 2008, Alynx, Co. merged into MiMedx Group, Inc., a Florida corporation and wholly-owned subsidiary that had been formed for purposes of the merger, with MiMedx Group, Inc. as the surviving corporation in the merger. In January 2011, we acquired all of the outstanding equity interests of Surgical Biologics, LLC (n/k/a MiMedx Tissue Services, LLC).

Current Business Priorities and Strategy

As a pioneer in placental biologics, we are focused on addressing the needs of patients with acute and chronic non-healing wounds in the areas of advanced wound care and surgical recovery. We have a promising late-stage pipeline platform aimed at decreasing pain and improving function in patients with degenerative musculoskeletal conditions. There is significant unmet patient need due to an aging population, an increasing incidence of obesity and diabetes, and other contributing comorbidities that result in a higher susceptibility to non-healing across each of these therapeutic areas. An increasing number of patients require advanced treatment, which represents a significant cost burden on the healthcare system. By incorporating a strategy to advance the scientific and therapeutic potential of placental tissue and more rigorously establish the clinical and economic effectiveness of our products, we believe the Company can differentiate the value of our portfolio and address multiple areas of significant unmet clinical need. We have focused our priorities on initiatives across our Commercial, Operations and Research & Development organizations that position the Company to achieve its goal of sustainable double digit annual percentage growth in our business and advance our late-stage musculoskeletal pipeline.

We believe there are a number of large, underpenetrated market opportunities in the areas of advanced wound care and surgical recovery, including across multiple international markets. We anticipate receiving reimbursement approval in Japan in mid-2022, and plan to launch EPIFIX in Japan as the first amniotic tissue approved for wound treatment across a broad range of conditions. Domestically, we are expanding our addressable markets from the treatment of diabetic foot ulcers, venous leg ulcers, pressure ulcers and complex wounds into areas of surgical recovery where the use of our tissue products could help reduce complications across several specialties, including plastic surgery, general surgery, gynecology, urology, orthopedics, spinal surgery, lower extremity repair and sports medicine procedures. After studying the landscape of surgical procedures, we are targeting certain procedures based on potential complication rate, clinical relevance, economic factors and business priorities. We have a robust pipeline of organic products in development, and have a goal of improving the Company's Product Vitality Index by launching two new organic products per year, beginning with AMNIOEFFECT™ and our Placental Collagen Matrix ("***PCM***") product in 2022. We believe we have a sustainable competitive advantage with our customer focused ecosystem, consisting of a leading portfolio of products, proprietary technology, and best-in-class sales and support organization, together with our broad access and coverage, robust clinical support and medical education efforts, and record of proven outcomes focused on improving patient care.

The Company is also pursuing FDA approval for mdHACM as a platform technology to treat musculoskeletal degeneration across multiple indications, beginning with knee osteoarthritis ("***KOA***"). In late 2021, we reviewed the results of our Phase 2B KOA clinical trial, which did not meet its primary endpoints, but did yield significant outcomes from the "Pre-Interim Analysis Cohort" consisting of 190 patients. The 190 subjects enrolled prior to an interim analysis performed for sample size correction in July through August 2019 showed a statistically significant and clinically meaningful difference in favor of mdHACM in Western Ontario and McMaster Universities Arthritis Index ("***WOMAC***") total scores, and in each of the pain and function subscales compared to the placebo. However, subjects enrolled after this interim analysis did not show separation from the placebo. Root-cause analysis determined that the potency of the investigational product faded as it aged, resulting in the study's failure to meet its primary endpoints. Based on the data from the Pre-Interim Analysis Cohort in the Phase 2B trial, published retrospective data, extensive real-world clinical use, and ongoing scientific mechanism of action research, the Company expects to initiate a Phase 3 KOA program in 2022, with a BLA filing anticipated in late 2025, and will work closely with the FDA in advancing this program.

Our Product Portfolio

We sell our placenta-based allograft products under our own brands and, on a limited basis, through a private label or original equipment manufacturer ("***OEM***"). We maintain strict controls on quality at each step of the manufacturing process beginning at the time of procurement. Our Quality Management System is focused on compliance with the American Association of Tissue Banks' ("***AATB***") standards and the FDA's CGTP, and we are implementing CGMP. We believe the application of CGMP will provide benefits throughout our entire product portfolio, and add to our competitive differentiation.

EPIFIX

EPIFIX is a semi-permeable, protective barrier allograft comprised of dehydrated human amnion/chorion membrane that may be used in the treatment of chronic wounds, including diabetic foot ulcers ("***DFUs***"), venous leg ulcers ("***VLUs***"), and pressure ulcers. EPIFIX is available in an assortment of sheet configurations and sizes to accommodate various wounds.

MiMedx also has a micronized version of this product that it no longer markets or sells in the United States. As further discussed below under the heading "*Government Regulation - Recent FDA Guidance and Transition Policy for HCT/Ps*," the FDA clarified in its 2017 guidance that it regards micronized placental membrane products as subject to FDA licensure as biological products under Section 351.

AMNIOFIX

AMNIOFIX is a semi-permeable, protective barrier allograft comprised of dehydrated human amnion/chorion membrane that may be used in surgical recovery applications. AMNIOFIX is available in an assortment of sheet configurations and sizes for internal use, including in the areas of lower extremity repair, spine, orthopedic, sports medicine, gastrointestinal, urologic, and other general surgery applications.

mdHACM

mdHACM is a micronized form of AMNIOFIX, and supplied in powder form, reconstituted with 0.9% sterile saline for injection. This product is our lead BLA candidate. We completed three late-stage randomized controlled studies under open INDs, evaluating mdHACM in plantar fasciitis, Achilles tendonitis and knee osteoarthritis. While the trials did not meet their primary endpoints, we intend to initiate our Phase 3 clinical trial program for knee osteoarthritis in 2022. For further details, see "--*Clinical Trials*."

AMNIOBURN

AMNIOBURN is a semi-permeable, protective barrier allograft comprised of dehydrated human amnion/chorion membrane that may be used in the treatment of partial-thickness and full-thickness burns.

EPICORD and AMNIOCORD

EPICORD and AMNIOCORD are dehydrated human umbilical cord allografts that may be used to provide a protective environment for the healing process and are used in the areas of advanced wound care and surgical recovery. These products are thicker than our amniotic membrane allografts and can be applied in deeper wounds or in areas where suturing the allograft in place may be advantageous.

EPICORD Expandable is an allograft derived from the umbilical cord, and can expand to twice its size, conforming to uneven surfaces and deep wounds. The thickness of the product allows for suturing as needed to keep the graft in place, and it provides healthcare professionals a new option to support the advanced wound care needs of their patients with larger, chronic, and hard-to-heal wounds.

AMNIOFILL

The Company ceased marketing and selling AMNIOFILL in the United States in May 2021, following the end of the FDA's period of enforcement discretion. We have not yet initiated any clinical trials in furtherance of any regulatory approvals for this product.

OEM Products

We sell a selection of allografts on an OEM basis pursuant to an agreement under which we have granted a third party an exclusive license to some of our technology for use in dental applications.

We continue to research new opportunities for amniotic and other placental tissue, and we have additional offerings in various stages of conceptualization and development.

Placenta Donation Program

We partner with physicians and hospitals to recover donated placental tissue. Through our donor program, a mother who delivers a healthy baby via Caesarean section can donate her placenta and umbilical cord tissue in lieu of having it discarded as medical waste. After consent for donation is obtained, a blood sample from each donor is tested for communicable diseases, and

the donor is screened for risk factors in order to determine eligibility in compliance with federal regulations and AATB standards. We operate a licensed tissue bank that is registered as a tissue establishment with the FDA, and we are an accredited member of the AATB. All donor records and test results are reviewed by our Medical Director and staff prior to the release of the tissue for distribution. However, see discussion below, "*Risk Factors*" under the heading "*The products we manufacture and process are derived from human tissue and therefore have the potential for disease transmission."*

We have developed a large, geographically diverse, network of hospitals that participate in our placenta donation program, and we employ a dedicated staff that work with these hospitals. We also utilize a third-party provider of placenta donations on an as- needed basis to mitigate business risk. We believe that we will be able to obtain an adequate supply of tissue to meet anticipated demand for the foreseeable future. However, see discussion below "Risk Factors" under the heading "*Our products depend on the availability of tissue from human donors, and any disruption in supply could adversely affect our business*."

Processing (Manufacturing)

The Company has developed and patented a unique and proprietary technique (PURION) for processing allografts from the donated placental tissue. This technique specifically focuses on preserving the tissue's natural growth factor content and regulatory proteins, and maintaining the structure and collagen matrix of the tissue. Our patented and proprietary processing method employs aseptic processing techniques in addition to terminal sterilization for increased product safety. Despite starting with similar placental tissues, all placental tissue products and processes are not the same – we believe that our proprietary tissue engineering process preserves more of the natural beneficial characteristics of the tissue than the processes used by many of our competitors.

The PURION process produces an allograft that retains the tissue's inherent biological properties and regulatory proteins (including cytokines, chemokines, and growth factors) found in the placental tissue and produces an allograft that is safe and easy for healthcare providers to use. The allograft can be stored at room temperature and has a five-year shelf life. Each sheet allograft incorporates specialized visual embossments that assist the health care practitioner with allograft placement and orientation.

To ensure the safety of human tissue products, the FDA enforces CGTP manufacturing regulations. We believe that MiMedx has developed mature systems to comply with, and is in compliance with, these regulations. As an important part of the Company's product safety compliance, MiMedx products are terminally sterilized to an internationally recognized industry standard in addition to having been processed *via* the PURION process.

Our facilities are subject to periodic unannounced inspections by regulatory authorities and may undergo compliance inspections conducted by the FDA and corresponding state and foreign agencies. We are registered with the FDA as a tissue establishment and are subject to the FDA's CGTP quality program regulations, state regulations and regulations promulgated by various regulatory authorities outside the United States. The Company's September 2018 FDA inspection for compliance with CGTP regulations resulted in no observations and a no action indicated ("***NAI***") rating, which is the most favorable designation the FDA provides after an inspection. In December 2019, the FDA conducted CGMP inspections at our Marietta, Georgia, and Kennesaw, Georgia, processing facilities. The FDA issued a Form FDA 483 ("***483***"), which is a list of inspectional observations, at the conclusion of each inspection. Specifically, the FDA issued a 483 consisting of nine observations at our Marietta, Georgia processing facility, and a 483 consisting of 14 observations at our Kennesaw, Georgia processing facility. MiMedx timely responded to the FDA regarding each observation, providing substantive responses to all of the observations. The Company's response included completed and planned actions to address each observation, and all of these remedial actions have been completed. The FDA classified its December 2019 inspection of our Kennesaw, Georgia facility as voluntary action indicated ("***VAI***"), which means objectionable conditions or practices were found in their December 2019 inspection but the agency is not taking or recommending any administrative or regulatory actions. The FDA also categorized its December 2019 inspection of our Marietta, Georgia facility as VAI. The Company believes it has significantly progressed its CGMP compliance and maintains a proactive dialogue with the FDA regarding its continued application of CGMP throughout its portfolio.

Intellectual Property

Our intellectual property includes owned and licensed patents, owned and licensed patent applications and patents pending, proprietary manufacturing processes and trade secrets, and trademarks associated with our technology. We believe that our patents, proprietary manufacturing processes, trade secrets, trademarks, and technology licensing rights provide us with important competitive advantages.

Patents and Patent Applications

Due to the substantial expertise and investment of time, effort and financial resources required to bring new regenerative biomaterial products and implants to the market, the importance of obtaining and maintaining patent protection for significant new technologies, products and processes cannot be underestimated. As of the date of the filing of this Annual Report, in addition to international patents and patent applications, we own 62 U.S. patents related to our amniotic tissue technology and products, and 32 additional patent applications covering aspects of this technology are pending at the United States Patent and Trademark Office. The vast majority of our domestic patents covering our core amniotic tissue technology and products will

not begin to expire until August 2027. See discussion below – "*Risk Factors*" under the heading "*Risks Related to Our Intellectual Property*."

Market Overview

Domestic sales currently account for substantially all of our revenue, and we are actively pursuing international expansion, primarily targeting Japan and select countries in Europe, Asia Pacific, and the Middle East. In the United States, our primary areas of clinical use include advanced wound care and surgical recovery applications.

Wound Care

The broad wound care category includes traditional dressings such as bandages, gauzes and ointments, which are used to treat non-severe or non-chronic wounds, and advanced wound care products such as medical devices, advanced dressings, xenografts, biological products, and HCT/Ps, which are used as skin substitutes to treat severe wounds or chronic wounds that have not appropriately closed after four weeks of treatment with traditional or standard of care dressings.

In the United States, estimates indicate that in 2021, the prevalence of chronic wounds was 2% of the total U.S. population, or approximately 6.9 million people suffering from chronic wounds. Of these chronic wounds, approximately 58% or 3.9 million are categorized as chronic leg ulcers (which include DFUs and VLUs), with 43% treated with advanced wound care dressings such as skin substitutes (GlobalData: 2021 Wound Care Management- Tissue Engineered Skin Subs - US - 2015-2030). MiMedx is a leader in the cellular tissue products/skin substitute segment of the advanced wound care category and the amniotic tissue allograft sub-category. We expect these markets will continue to grow due to certain demographic trends, including an aging population, increasing incidence of obesity and diabetes and the associated higher susceptibility to non-healing chronic wounds. Furthermore, the increasing number of patients requiring advanced treatment represents a significant cost burden on the healthcare system. The overall cost of treating chronic wounds is rising sharply, and the current annual estimated cost in the United States exceeds $28 billion.

Traditional dressings such as bandages, gauzes and ointments, along with treatment of active infection and debridement, currently represent the "standard of care" for treating chronic wounds such as DFUs and VLUs. If, after four weeks of standard of care therapy, the wound has not responded appropriately or improved, clinical research has shown that advanced therapy such as a skin substitute can be beneficial as part of the patient's treatment plan. However, often times advanced therapies are not employed due to current treatment guidelines, product access, or medical education around the clinical and economic benefits of advanced skin substitutes. We believe this represents a large opportunity for us to expand the market and drive initiatives resulting in market growth. According to data provided by BioMedGPS, MiMedx's EPIFIX is the current product of choice for physicians choosing to use an amniotic skin substitute product as a barrier or cover. Our EPIFIX and EPICORD products can be stored at room temperature for up to five years compared to certain other skin substitutes currently on the market that require cryogenic freezer storage, have limited shelf life, and may not be human-derived. In addition, we market multiple sizes of EPIFIX and EPICORD sheets for use as protective barriers, which enables a healthcare provider to select an appropriate size graft based on the size of the wound to reduce product waste. Our EPICORD and EPICORD Expandable product lines also offer an alternative treatment option to address larger, deeper wounds in a cost-effective way earlier in the treatment algorithm.

Surgical Recovery

We are expanding beyond advanced wound care into areas of surgical recovery where the use of our tissue products could help reduce complications across several specialties, including plastic surgery, general surgery, gynecology, urology, orthopedics, spinal surgery, lower extremity repair and sports medicine procedures. Certain surgical procedures can have an increased likelihood of complications such as dehiscence, adhesions, and others that may affect both the recovery of the patient and the outcome of the surgery. The rate of complications can depend on a number of factors, including the complexity of the procedure and patient specific issues, such as obesity, diabetes or advanced age.

Surgical recovery applications focus on the use of tissue products to augment tissue, serve as a barrier membrane in procedures where scar tissue formation may be problematic or where a second surgery may be required, or aid in incisional closure with the goal of preventing or reducing procedural complications. Following a thorough review of surgical procedures and potential clinical applications across several specialties, we have identified those areas where we believe our tissue products could be incorporated. We are targeting certain procedures for use of our products based on unmet clinical need, potential procedural complication rate, clinical relevance, economic factors and overall business priorities. As in advanced wound care, we believe this market is expanding as a result of demographic trends, including an aging population, increasing incidence of obesity and diabetes and the associated higher susceptibility to non-healing chronic wounds.

International

The Company is actively pursuing international expansion, with an initial focus in Japan. 2021 estimates indicate that within a total Japanese population of approximately 126 million people, there are approximately 626,000 chronic leg ulcers, 100,000 of which are potential candidates for an advanced wound care product (GlobalData Tissue Engineered-Skin Sub Data Model

Wound Management Year). The Japanese population has the largest proportion of people 65 or older in the world, estimated to be approximately 36.2 million (28.8%) in 2020, increasing the potential need for healthcare products and services (Statistics Bureau of Japan, https://www.stat.go.jp/english/data/handbook/c0117.html). We believe these demographic trends, along with an increasing incidence of obesity and diabetes and the associated higher susceptibility to non-healing chronic wounds, present a significant unmet patient need and underpenetrated market opportunity.

MIMEDX received regulatory approval from the Japanese Ministry of Health, Labor and Welfare in June 2021 to market EPIFIX in Japan, as the first amniotic tissue approved for hard-to-heal chronic wounds, such as DFUs and VLUs, which do not respond to conventional therapy. We expect to secure reimbursement approval in mid- 2022, and are putting in place the necessary structure, medical education programs, and market development initiatives to operationalize our commercial strategy.

The Company is also evaluating opportunities for geographic expansion in the United Kingdom and certain other countries in Europe and the Middle East. Current efforts are focused on the collection of real-world evidence to support the development of patient treatment guidelines, health economic analysis, and product reimbursement in core markets.

Biologics License Application (BLA) Programs

In 2017 the FDA released guidance clarifying its views that certain cellular and tissue-based products, including certain products marketed by MiMedx, are considered drugs, devices, and/or biological products subject to Section 351 requirements under the federal Food, Drug and Cosmetic Act (the "***FD&C Act***"). In order to conform to this regulatory guidance, MiMedx is pursuing indications under the BLA pathway, although there can be no assurance that we will obtain a BLA and we may ultimately decide not to pursue a BLA for these products or indications. See *Risk Factors* - "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.*"

mdHACM is our lead BLA product candidate. We conducted three IND programs in the areas of plantar fasciitis (Phase 3 clinical trial conducted), Achilles tendonitis (Phase 3 clinical trial conducted) and knee osteoarthritis (Phase 2B clinical trial conducted). See *Clinical Trials*, below, for more information.

After oral non-habit forming pain medication fails to adequately relieve a patient's joint, ligament or tendon pain, market available injections such as corticosteroids and hyaluronic acid are commonly used treatment options. However, a number of patients still do not get adequate relief from these injections, or do not want to use corticosteroids for a variety of reasons. Additionally, in light of the crisis with opioid abuse, non-surgical treatments and alternative approaches to musculoskeletal pain management are under consideration. Patients and physicians are searching for new products that are safe and effective for the management of chronic and degenerative musculoskeletal conditions.

Osteoarthritis ("***OA***") is a disease characterized by progressive articular cartilage destruction, ultimately leading to disabling pain and joint dysfunction. The knee is the most commonly affected joint and knee OA represents the leading cause of disability in the adult population. Estimates indicate that approximately 17.5 million people suffered from symptomatic knee osteoarthritis in 2020 (GlobalData: 2020 Orthopedic Devices Knee Reconstruction - US - 2015-2030), and this number is expected to increase to 19 million people by 2025 (GlobalData: 2020 Orthopedic Devices - Knee Reconstruction - US - 2015-2030). According to the Arthritis Foundation, more than half of knee osteoarthritis sufferers are younger than 65 years old. Current treatment options include analgesics, non-steroidal anti-inflammatory drugs ("***NSAIDs***"), injectable corticosteroids, viscosupplements, platelet rich plasma, and other emerging therapies. Approximately 80% of symptomatic knee OA patients fail conservative therapy (GlobalData: 2020 Orthopedic Devices - Viscosupplementation - US - 2015-2030). When conservative and non-operative treatment options fail, patients often consider surgical intervention. According to estimates by Global Data's United States Knee Reconstruction Model, approximately one million people required knee reconstruction surgery in 2020, with 2% needing bilateral knee replacement. Costs for knee replacement procedures can exceed $55,000, on average. We believe there is significant unmet need for a non-surgical treatment option to reduce pain and improve function in patients suffering from knee osteoarthritis. Current estimates of the potential addressable market for mdHACM are dependent on many factors, including the results of our clinical trial program, recommended place in the knee osteoarthritis treatment algorithm, anticipated dosing regimen, as well as the potential for our clinical trials to demonstrate disease modifying characteristics which could further amplify the market opportunity. However, mdHACM has not yet been approved by the FDA for any such use. See Item 1A - Risk Factors - "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.*"

Marketing and Sales

Our direct sales team includes field sales representatives and field sales management, who call on hospitals, wound care clinics, physician offices, and federal health care facilities such as the Department of Veterans Affairs (the "***VA***") and Department of Defense ("***DoD***") hospitals. Our direct sales force focuses on the advanced wound care and surgical recovery category through multiple sites of service. We also maintain a network of independent sales agents that focus on surgical recovery applications leveraging the complementary products in their portfolios, and provide access to certain customers, as well as sales coverage for areas where we do not have a full time sales representative.

We also sell our products through distributors. Distributors purchase products from us at wholesale prices and resell products to end users. See Note 15 to our consolidated audited financial statements included in Item 8 of this Annual Report, "*Revenue*." As discussed above, we sell allografts for certain applications on an OEM basis pursuant to an agreement under which we grant a third party an exclusive license to some of our technology for use in certain fields.

Coverage and Reimbursement

With the exception of government accounts, most purchasers of our products include physicians, hospitals or ambulatory surgery centers ("***ASCs***") that rely on reimbursement by third-party payers. Accordingly, our growth substantially depends on adequate levels of third-party reimbursement for our products from these payers. Third-party payers are sensitive to the cost of products and services and are increasingly seeking to implement cost containment measures to control, restrict access to, or influence the purchase of health care products and services. In the U.S., such payers include U.S. federal healthcare programs (*e.g.*, Medicare and Medicaid), private insurance plans, managed care programs and workers' compensation plans. Federal healthcare programs have prescribed coverage criteria and reimbursement rates for medical products, services and procedures. Similarly, private, third-party payers have their own coverage criteria and negotiate reimbursement amounts for medical products, services and procedures with providers. In addition, in the U.S., an increasing percentage of insured individuals are receiving their medical care through managed care programs (including managed federal healthcare programs) which monitor and may require pre- approval of the products and services that a member receives. Ultimately, however, each third-party payer determines whether and on what conditions they will provide coverage for our products, and such decisions often include each payer's assessment of the science and efficacy of the applicable product.

A portion of our products are purchased by U.S. government accounts (*e.g.*, the VA and the Public Health Service (including the Indian Health Service), which do not depend on reimbursement from third party payers. In order for us to be eligible to have our products purchased by such federal agencies and paid for by the Medicaid program, federal law requires us to participate in the VA Federal Supply Schedule ("***FSS***") pricing program.

Medicare Coverage

The largest third-party payer in the United States is the Medicare program, which is a federally-funded program that provides healthcare coverage for senior citizens and certain disabled individuals. The Medicare program is administered by the Centers for Medicare and Medicaid Services ("***CMS***"), an agency within the U.S. Department of Health and Human Services ("***HHS***"). Medicare Administrative Contractors ("***MACs***") are private insurance companies that serve as agents of CMS in the administration of the Medicare program and are responsible for making coverage decisions and paying claims for the designated Medicare jurisdiction. There are seven Part A/B MACs in the U.S., which cover 12 jurisdictions, each with its own geographical jurisdictions, and each MAC has its own standards and process for determining coverage and reimbursement for a procedure or product. Private payers often follow the lead of governmental payers in making coverage and reimbursement determinations. Therefore, achieving favorable Medicare coverage and reimbursement is usually a significant gating factor for successful coverage and reimbursement for a new product or clinical application by private payers.

The coverage and reimbursement framework for products under Medicare is determined in accordance with the Social Security Act and pursuant to regulations promulgated by CMS, as well as the agency's coverage and reimbursement guidance. In some cases, CMS does not specify coverage, leaving each of the MACs to determine whether and on what conditions they will provide coverage for the product. Such decisions are based on each MAC's assessments of the science and efficacy of the applicable product. As noted below under the heading "*Research and Development*," we have devoted significant resources to clinical studies to provide data to the MACs, as well as other payers, in order to demonstrate the clinical efficacy and economic effectiveness of our tissue technologies. As of the date of this report, both EPIFIX and EPICORD allografts are eligible for coverage by all MACs. In January 2019, EPIFIX and EPICORD received separate CMS HCPCS Codes, Q4186 and Q4187, distinguishing each product in coverage and reimbursement policies.

For Medicare reimbursement purposes, our EPIFIX and EPICORD allografts are classified as "skin substitutes." Current reimbursement methodology varies between the hospital outpatient department ("***HOPD***") and ASC setting versus the physician office. Currently, skin substitutes are reimbursed under a "packaged" or "bundled" methodology along with the related application procedure under a two-tier payment system. In the HOPD and ASC setting, providers receive a single payment that reimburses them for the application of the product as well as the product itself. CMS classifies skin substitutes into low cost or high cost groups, based on a geometric mean unit cost and per day cost. For 2022, the geometric mean unit cost threshold applicable to both our EPIFIX and EPICORD allograft products was $48 per square centimeter, and the per day cost threshold was $949. The national HOPD average packaged ("bundled") rate for our EPIFIX and EPICORD allograft products was $1,568 in 2018, was $1,549 in 2019, was $1,623 in 2020, was $1,715 in 2021, and is $1,749.26 in 2022. This "bundled" payment structure applies only to the HOPD and ASCs settings.

Currently, providers that administer EPIFIX or EPICORD allografts and other skin substitutes in the physician office setting are reimbursed based on the size of the graft, computed on a per square centimeter basis. The payment rate is calculated using the manufacturer's reported average sales price ("***ASP***") submitted quarterly to CMS. This payment methodology applies only to physician offices. The Medicare payment rates are updated quarterly based on this ASP information for many skin substitute

products but not all. EPIFIX and EPICORD are included on the Medicare national ASP Drug Pricing File. The published skin substitute Medicare payment rate established by statute is ASP plus 6%. Reimbursement for products not included on the Medicare national ASP Drug Pricing File are at the discretion of each MAC, which typically is invoice cost or wholesale acquisition cost ("***WAC***") plus 6%.

Medicare payments for all items and services, including EPIFIX and EPICORD sheet products, since 2013 have been reduced by 2% under the sequestration required by the Budget Control Act of 2011, as amended by the American Taxpayer Relief Act of 2012. Subsequent legislation extended the 2% reduction to 2030 (although the sequestration was suspended from May 1, 2020 through December 31, 2020 due to COVID-19). This 2% reduction in Medicare payments affects all parts of the Medicare program. The law allows for additional sequestration orders, potentially resulting in up to a 4% reduction in Medicare payments under a statutory PAYGO sequestration order. The Coronavirus Aid, Relief, and Economic Security (CARES) Act suspended the sequestration payment adjustment percentage of 2% applied to all Medicare Fee-for-Service (FFS) claims from May 1 through December 31, 2020. The Consolidated Appropriations Act, 2021, extended the suspension period to March 31, 2021. An Act to Prevent Across-the-Board Direct Spending Cuts, and for Other Purposes, signed into law on April 14, 2021, extended the suspension period to December 31, 2021.

Private Payers

We have devoted considerable resources to clinical trials to support coverage and reimbursement of our products. An increasing number of private payers reimburse for EPIFIX and EPICORD in the physician office, the HOPD and the ASC settings, and we have complete national commercial coverage for the use of EPIFIX in the treatment of DFUs. Coverage and reimbursement vary according to the patient's health plan and related benefits. The majority of health plans currently provide coverage for EPIFIX and EPICORD for the treatment of DFUs, and many include treatment of VLUs. MiMedx has secured payer coverage for over 300 million covered lives, allowing a significant number of patients access to our products. Information contributing to the coverage determination included a third-party technical brief (by the Agency for Healthcare Research and Quality ("***AHRQ***")) that evaluated a number of skin substitutes for treating chronic wounds, in which EPIFIX was noted to have the most Randomized Controlled Trials, a low risk of overall study bias, and statistically significant findings.

We have established and continue to grow a reimbursement support group to educate providers and patients with regard to accurate coverage and reimbursement information regarding our products, and plan to continue investing in clinical data supportive of coverage for our products in additional clinical areas of use. See discussion below – "*Risk Factors*" under the heading "*Our revenues depend on adequate reimbursement from public and private insurers and health systems.*"

Hospital Use

Products administered in the hospital inpatient setting are bundled when submitted as part of the hospital's claim under a diagnosis-related group ("***DRG***"). In these cases, we continue to educate the hospital that our products are cost-effective, and have the potential to improve patient outcomes and reduce the length of stay. We are working to develop additional health economic data to support this effort. As noted above, the ability to sell products in a hospital is dependent upon demonstrating to the hospital the product's efficacy and cost effectiveness.

Customer Concentration

For the years ended December 31, 2021, 2020, and 2019, our net sales to all U.S. government accounts comprised approximately 3%, 5% and 6% of our net sales, respectively. We have contracted with a third party as our indefinite delivery/ indefinite quantity channel partner into the VA and DoD markets. See discussion below – "*Risk Factors*" under the heading "*A portion of our revenues and accounts receivable come from government accounts.*"

Competition

Due to lower barriers of entry in the Section 361 HCT/P regulated market, competition in the placenta-based and allograft tissue field is intense and subject to new entrants and evolving market dynamics. Companies within the industry compete on the basis of price, ease of handling, logistics and efficacy. Another important factor is third-party reimbursement, which is difficult to obtain as it is a time-consuming and expensive process. We believe our success in obtaining third-party reimbursement, our strong position with group purchasing organizations, capabilities and investments to apply CGMP, and established clinical evidence for our products are competitive advantages.

In February 2020, the AHRQ published a technology assessment analyzing Skin Substitutes for Treating Chronic Wounds. AHRQ conducted a literature search yielding 164 studies and 81 Supplemental Evidence and Data for Systematic Reviews ("***SEADs***") submissions. Only 22 randomized, controlled trials ("***RCTs***") met the inclusion criteria to be reviewed in the AHRQ analysis, and out of the 22 RCTs MiMedx had six RCTs included in the final brief. Of the 22 studies reviewed, only 12 were assessed as low risk of bias, of which five were MiMedx RCTs. This important government assessment highlights our commitment to providing unbiased level 1 clinical evidence in advanced wound treatment. This dedication to elevating the standard of care is further underscored by the fact that the AHRQ points out in its assessment that MiMedx was the only entity

to provide two studies out of the 22 evaluated that performed a subgroup analysis of patients with diabetic foot ulcers that received adequate debridement. Both studies reported an increase in wounds healed with adequate debridement.

Advanced wound care therapies employ technologies to aid in wound healing in cases where the wound is chronic and healing progress has stalled or stopped. The primary competitive products in the skin substitutes category include, among others, placental-tissue allografts, tissue-engineered living skin equivalents, porcine-, bovine- and fish skin-derived xenografts and collagen matrix products. Xenografts, or tissue transplants from non-human species, serve mainly as an extracellular matrix and have to undergo aggressive processing to remove immunogenic animal products from the tissue. In addition, challenges with xenografts include limited clinical published data, and some products may require suturing or stapling to the wound bed, making handling more difficult. Furthermore, other skin substitutes currently on the market require cryogenic freezer storage and have limited shelf life.

Our main competitors in the skin substitute market include Integra LifeSciences Holdings Corporation, Organogenesis, Inc., and Smith & Nephew plc, which sell a variety of advanced wound care products, including skin substitutes and placental tissue allografts. In addition, the overall market is competitive, with a large number of other competitors that compete regionally and nationally.

See discussion below – "*Risk Factors*" under the heading "*We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.*"

Government Regulation

The products manufactured and processed by the Company are derived from human tissue. As discussed below, our Section 361 HCT/Ps are tissue-based products that are regulated solely under Section 361 and do not require pre-market clearance or approval by the FDA. Our Section 351 HCT/Ps are also tissue products, but are regulated as biological products, and, in order to be lawfully marketed in the United States, require FDA pre-market approval. See discussion below – "*Risk Factors*" under the heading "*Risks Related to Regulatory Approval of Our Products and Other Government Regulations*."

Tissue Products

In 1997, the FDA proposed a regulatory framework for cells and tissues. This framework was intended to provide adequate protection of public health while enabling the development of new therapies and products with limited regulatory burden. A key innovation in the system was that covered HCT/Ps would be regulated solely under Section 361 and would not be subject to pre-market clearance. The registration and listing rules were finalized in January 2001 in 21 CFR Part 1271. Additional rules regarding donor eligibility and good tissue practices were soon adopted. Together, these rules form a comprehensive system intended to encourage significant innovation.

The FDA requires each HCT/P establishment to register and establish that its product meets the requirements to qualify for regulation solely under Section 361. To be a Section 361 HCT/P, a cellular or tissue-based product generally must meet all four of the following criteria (fully set forth in 21 CFR Part 1271):

- it must be minimally manipulated;
- it must be intended for homologous use;
- its manufacture must not involve combination with another article, except for water, crystalloids or a sterilizing, preserving or storage agent; and
- it must not have a systemic effect and must not be dependent upon the metabolic activity of living cells for its primary function.

Certain amniotic and other birth tissues are considered cellular and tissue-based articles and are therefore eligible for regulation solely as a Section 361 HCT/P depending on whether the specific product at issue and the claims made for it are consistent with the criteria set forth above. HCT/Ps that do not meet these criteria are subject to more extensive regulation as drugs, medical devices, biological products or combination products.

Products Regulated Solely as Section 361 HCT/Ps

The FDA has specific regulations governing HCT/Ps, including some regulations specific to Section 361 HCT/Ps, which are set forth in 21 CFR Part 1271. All establishments that manufacture Section 361 HCT/Ps must register and list their HCT/Ps with the FDA's Center for Biologics Evaluation and Research within five days after commencing operations. In addition, establishments are required to update their registration annually in December or within 30 days of certain changes and submit changes in HCT/P listing at the time of or within six months of such change.

The regulations in 21 CFR Part 1271 also require establishments to comply with donor screening, eligibility and testing requirements and CGTP to prevent the introduction, transmission and spread of communicable diseases. The CGTP govern, as may be applicable, the facilities, controls and methods used in the manufacture of all HCT/Ps, including processing, storage, recovery, labeling, packaging and distribution of Section 361 HCT/Ps. CGTP require us, among other things, to maintain a

quality program, train personnel, control and monitor environmental conditions as appropriate, control and validate processes, properly store, handle and test our products and raw materials, maintain our facilities and equipment, keep records and comply with standards regarding recovery, pre-distribution, distribution, tracking and labeling of our products and complaint handling. 21 CFR Part 1271 also mandates compliance with adverse reaction and CGTP deviation reporting and labeling requirements.

The FDA conducts periodic inspections of HCT/P manufacturing facilities, and contract manufacturers' facilities, to assess compliance with CGTP. Such inspections can occur at any time, with or without written notice, at such frequency as determined by the FDA in its sole discretion. To determine compliance with the applicable provisions, the inspection may include, but is not limited to, an assessment of the establishment's facilities, equipment, finished and unfinished materials, containers, processes, HCT/Ps, procedures, labeling, records, files, papers and controls required to be maintained under 21 CFR Part 1271. If the FDA were to find serious non-compliant manufacturing or processing practices during such an inspection, it could take regulatory actions that could adversely affect our business, results of operations, financial condition and cash flows. See Item 1A Risk Factors, "*Our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly, and our failure to comply could result in negative effects on our business, results of operations and financial condition.*"

2017 FDA Guidance and Transition Policy for HCT/Ps

In November 2017, the FDA released four guidance documents that, collectively, the agency described as a "comprehensive policy framework" for applying existing laws and regulations governing regenerative medicine products, including HCT/Ps. One guidance document in particular, "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue – Based Products: Minimal Manipulation and Homologous Use – Guidance for Industry and Food and Drug Administration Staff*," offered important clarity.

The guidance documents confirmed that sheet forms of amniotic membrane generally are appropriately regulated as solely Section 361 HCT/Ps when intended for use as a barrier or covering. We continually evaluate our marketing materials for each of our products to align with FDA guidance.

Second, the guidance documents confirmed the FDA's stance that all micronized amniotic membrane products are more than minimally manipulated, and therefore do not qualify as Section 361 HCT/Ps. However, the guidance documents also stated that the FDA intended to exercise enforcement discretion under limited conditions with respect to the IND application and pre-market approval requirements for certain HCT/Ps through November 2020, which was later extended through May 2021. This period of enforcement discretion was intended to give sponsors time to evaluate their products, have a dialogue with the agency and, if necessary, begin clinical trials and file the appropriate pre-market applications. The FDA's approach was risk-based, and the guidance documents clarified that high-risk products and uses could be subject to immediate enforcement action.

This enforcement discretion applied across our industry, and during the period, the Company continued to market its products under this policy of enforcement discretion. After May 31, 2021, the Company no longer markets or sells its micronized and particulate products in the United States. We are pursuing the BLA pre-market approval process for certain uses of mdHACM. However, there is no assurance that the FDA will grant these approvals on a timely basis, or at all, or that we will not discontinue our pursuit of a BLA for certain products or indications. See "*Clinical Trials*" below for more information.

Products Regulated as Biologics – The BLA Pathway

The typical steps for obtaining FDA approval of a BLA to market a biological product in the United States include:

- Completion of preclinical laboratory tests, animal studies and formulations studies under the FDA's Good Laboratory Practice regulations;
- Submission to the FDA of an IND application for human clinical testing, which must become effective before human clinical trials may begin and which must include independent Institutional Review Board approval at each clinical site before the trials may be initiated;
- Performance of adequate and well-controlled clinical trials in accordance with Good Clinical Practices to establish the safety and efficacy of the product and its dosage (as applicable) for each indication;
- Development of purity, potency and identity tests to demonstrate consistency and reliability of the manufacturing process through a chemistry, manufacturing and control program;
- Submission to the FDA of a BLA for marketing the product that includes, among other things, reports of the outcomes and full data sets of the clinical trials, and proposed labeling and packaging for the product;
- Satisfactory review of the contents of the BLA by the FDA, including the satisfactory resolution of any questions raised during the review;
- Satisfactory completion of an FDA Advisory Committee review, if applicable;
- Satisfactory completion of an FDA inspection of the manufacturing facility or facilities at which the product is produced to assess compliance with FDA's CGMP regulations, to assure that the facilities, methods and controls are adequate to ensure the product's identity, potency, quality and purity; and
- FDA approval of the BLA, including agreement on post-marketing commitments, if applicable.

Generally, clinical trials are conducted in three phases, though the phases may overlap or be combined. Phase 1 trials typically involve a small number of healthy volunteers and are designed to provide information about the product safety and to evaluate the pattern of drug distribution and metabolism within the body. Phase 2 trials are conducted in a larger but limited group of

patients afflicted with a particular disease or condition in order to determine preliminary efficacy, dosage tolerance and optimal dosing, and to identify possible adverse effects and safety risks. Dosage studies are typically designated as Phase 2A, and efficacy studies are designated as Phase 2B. Phase 3 clinical trials are generally large-scale, multi-center, comparative trials conducted with patients who have a particular disease or condition in order to provide statistically valid proof of efficacy, as well as safety and potency. In some cases, the FDA will require Phase 4, or post-marketing trials, to collect additional data after a product is on the market. All phases of clinical trials are subject to extensive record keeping, monitoring, auditing and reporting requirements.

The FDA has broad regulatory compliance and enforcement powers. If the FDA determines that the Company has failed to comply with applicable regulatory requirements, it can take a variety of compliance or enforcement actions, such as issuing an FDA Form 483 notice of inspectional observations; sending a warning letter or untitled letter; issuing an order of retention, destruction, or cessation of marketing; imposing civil money penalties; suspending or delaying issuance of approvals; requiring product recalls; imposing a total or partial shutdown of production; withdrawing approvals or clearances already granted; pursuing product seizures, consent decrees or other injunctive relief; and criminal prosecution through the Department of Justice ("***DOJ***").

Clinical Trials

Trial Overview

The Company recently completed three IND studies investigating the use of mdHACM to reduce pain and increase function in patients with plantar fasciitis, Achilles tendonitis, and knee osteoarthritis. As previously disclosed, the trials were developed and initially overseen by senior managers, many of whom are no longer with the Company. The Company has instituted several actions with respect to its ongoing and anticipated clinical trials to address the resources, capabilities and expertise needed for an effective dialogue with the FDA regarding our BLA progress. However, there can be no assurance that we will obtain BLA approval and we may ultimately decide not to pursue a BLA for certain products or indications. See *Risk Factors - "Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies."*

Plantar Fasciitis

In March 2015, we initiated a Phase 2B prospective, single-blinded, RCT investigating a single injection of 40 mg of mdHACM as compared to a single intra-plantar injection of saline (placebo control) in the treatment of patients with recalcitrant plantar fasciitis pain and foot dysfunction. This trial enrolled 145 patients at 15 study sites. In September 2017, we announced the trial had met its efficacy endpoints, and the three-month endpoint data were published in 2018.

In April 2017, we met with the FDA and informally discussed preliminary data from the Phase 2B study, our progress toward achieving CGMP compliance, and our proposed Phase 3 study design. Formal FDA feedback from this meeting was incorporated into our development plans. Based on this feedback and the Phase 2B interim data, in January 2018 we initiated a Phase 3 prospective, double-blinded, RCT to assess the safety and efficacy of a single 40 mg intra-plantar injection of mdHACM as compared to a single intra-plantar injection of saline (placebo control) to treat patients with recalcitrant plantar fasciitis pain. The trial plan was initially to enroll 164 patients, with an interim analysis to assess adequacy of this sample size built into the statistical plan. In July through August 2019, we conducted an interim analysis on subjects representing 50% of total enrollment that had reached the primary efficacy endpoint, to assess adequacy of the sample size to assess differences between the two treatment groups. This analysis indicated that a significant increase in sample size would be required to observe clinically and statistically significant improvement and separation between treatment and control groups. We determined that increasing the sample size to 276 patients would provide sufficient power to observe an efficacy result with statistical and clinical significance. We instituted these changes and amendments and completed enrollment of 277 subjects in September 2020. Following completion of the study, initial review of the trial data during the third quarter of 2021 revealed that the study did not meet its endpoints. The data from the study continue to be the subject of extended analyses, however, as previously disclosed, we do not expect to file a BLA or pursue further studies in this indication at this time.

Knee Osteoarthritis

In March 2018, the FDA granted mdHACM the Regenerative Medicine Advanced Therapy ("***RMAT***") designation for use in the treatment of osteoarthritis of the knee. RMAT-designated products are eligible for increased and earlier interactions with the FDA, similar to those interactions available to fast-track and breakthrough-designated therapies. In addition, these products may be eligible for rolling review and accelerated approval. The meetings with sponsors of RMAT- designated products may include discussions of whether accelerated approval would be appropriate based on surrogate or intermediate endpoints reasonably likely to predict long-term clinical benefit or reliance upon data obtained from a meaningful number of sites.

In March 2018, we initiated a Phase 2B prospective, double-blinded RCT investigating a single intra-articular injection of 40 mg of mdHACM as compared to a single injection of saline (placebo control) in the treatment of pain and functional impairment in patients with osteoarthritis of the knee. This trial was planned to enroll 318 patients, with an interim analysis to assess adequacy of this sample size built into the statistical plan. This blinded interim analysis was performed in July through

August 2019 and revealed that while differences in the treatment groups were observed, the power to observe statistically and clinically significant results would be enhanced by increasing the sample size to 466 patients. Amendments to the protocol to allow this increase were subsequently approved. It should be noted that during the first half of 2020 in particular, study enrollment slowed considerably due to the ongoing COVID-19 pandemic , although this did begin to resolve in the third quarter of the year. Due to actual dropout rates observed in the study being lower than planned, in September 2020, we completed enrollment of 447 patients. We also amended the protocol to establish an open label extension to the trial and allow patients to receive a second injection of the active treatment at six months, nine months, or 12 months subsequent to their completion of study visits, if their pain has not resolved or responded, regardless of treatment arm. The study was still blinded to subjects, sites and MiMedx during this extension. The six months blinded efficacy visits in this study were completed during the second quarter of 2021, and analyses were completed during the third quarter of 2021. The final study visits are expected to occur (open label extension) during the second quarter of 2022.

As previously announced, the trial did not meet its primary endpoints, however it revealed that the 190 subjects enrolled prior to an interim analysis performed for sample size correction in July through August 2019 showed a statistically significant and clinically meaningful difference in favor of mdHACM in WOMAC total scores and both the pain and function subscales compared to the placebo. However, subjects enrolled after this interim analysis did not show separation from the placebo. Third-party biostatisticians validated the improvement in WOMAC Pain at three and six months, respectively (p=0.032 and p=0.009), WOMAC Function (p=0.046 and p=0.009), and WOMAC Total (p=0.038 and p=0.008) for the Pre-Interim Analysis Cohort of 190 patients. Our root-cause analysis has determined that the potency of the investigational product faded as it aged, resulting in the study's failure to meet its primary endpoints. The Company's proprietary biochemical and biological tests detected this reduced potency, related to the age of the investigational product used in the Phase 2B KOA study. Based on the clinically meaningful and statistically significant data from the Pre-Interim Analysis Cohort of 190 patients in the Phase 2B trial, published retrospective data, extensive real-world clinical use, and ongoing scientific mechanism of action research, the Company expects to initiate a Phase 3 KOA program in 2022, with a BLA filing anticipated in late 2025, and will work closely with the FDA in advancing these trials.

There can be no assurance, however, that our anticipated time frame for commencing the Phase 3 KOA program and submitting a BLA will be achieved or that we will receive FDA approval for mdHACM and be able to commercialize this product, or that such approval will not be delayed for a variety of reasons, including failure of the studies to achieve their endpoints; the impact of the COVID-19 pandemic on study enrollment and FDA operations; the potential that the results of the clinical studies do not merit further investment; and the work required to achieve commercial and manufacturing readiness. See discussion in Item 1A - "*Risk Factors*" under the heading "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time-consuming and may impede our ability to fully exploit our technologies."*

Achilles Tendonitis

In January 2018, we initiated a Phase 3 prospective, double-blinded RCT investigating a single intra-tendon injection of 40 mg of mdHACM as compared to a single injection of saline (placebo control) in the treatment of Achilles tendonitis. The planned trial enrollment was 158 patients, with an interim analysis to assess adequacy of the sample size built into the statistical plan. We analyzed data received from this sample size analysis, conducted on patients representing 50% of total enrollment that had reached the primary efficacy endpoint. This analysis indicated that a substantial increase in sample size would be required to observe clinically and statistically significant improvement and separation between treatment and control groups. With this in mind, we determined that the most reasonable approach was to continue the study to completion with the originally planned sample size, and analyze the final results to determine the adequacy of the measures employed and time points of observation to show meaningful clinical and statistical analyses. Enrollment for this study was completed and the last patient visit occurred in the first half of 2021. The data from this study are currently being prepared for analysis. We plan to review our options for this program after we have assessed the results of this study; however, as previously disclosed, we do not expect to file a BLA or pursue further studies in this indication at this time.

Prior to May 31, 2021, the date the FDA's period of enforcement discretion ended, we filed appropriate investigational applications for AMNIOFILL and EPIFIX Micronized. Two INDs were approved for EPIFIX, one in chronic wounds, another in surgical incisions, and an investigational device exemption ("***IDE***") was filed for AMNIOFILL. We have not yet initiated any clinical trials for AMNIOFILL or EPIFIX Micronized related to these applications, and have no immediate plans to advance these programs.

BLA Process

If study results support potential product approval and potential for commercialization, we intend to file BLAs as described above. The process of obtaining an approved BLA requires the expenditure of substantial time, effort and financial resources and may take years to complete. The fee for filing a BLA and the annual user fees payable with respect to any establishment that manufactures biologics and with respect to each approved product are substantial. While there can be no assurance that we will ultimately obtain regulatory approval for our micronized products, we have already completed substantial work towards our BLA program, including engineering our manufacturing processes to conform to CGMP requirements.

FDA Post–Market Regulation

Tissue processors regulated solely under Section 361 are still required to register as a tissue establishment with the FDA. As a registered tissue establishment, we are required to comply with regulations regarding labeling, record keeping, donor eligibility, screening and testing. We are also required to process the tissue in accordance with established CGTP, as well as report any deviations from core CGTP requirements or adverse reactions caused by a possible transmission of an infectious disease attributed to our tissue. Our facilities are also subject to periodic inspections to assess our compliance with the regulations.

Products covered by a BLA, New Drug Application, 510(k) clearance or a pre-market approval are subject to numerous additional regulatory requirements, which include, among others, compliance with CGMP (or, in the case of devices, with FDA's Quality System Regulation), which imposes certain procedural, substantive and record keeping requirements, and labeling regulations to ensure the product's identity, potency, quality, and purity. These products are also subject to the FDA's general prohibition against promoting products for unapproved or "off-label" uses, and additional adverse reaction reporting.

As part of our BLA development effort, we are updating our manufacturing establishments into maintaining application of CGMP for production of our injectable and other applicable Section 351 products. The process includes development and enhancement of production processes, procedures, tests and assays, and it requires extensive validation work. It also involves the procurement and installation of new production and lab equipment. These efforts require human capital, expertise and resources. We have made significant improvements over the last two years. We have engaged industry experts to assess our state of compliance and to provide guidance on the additional activities needed to maintain CGMP. Significant improvements include a newly built, validated processing suite applying CGMP that is utilized for processing of Section 351 products. See discussion in Item 1A – "*Risk Factors*" under the heading "*Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future."*

Other Regulation Specific to Tissue Products

National Organ Transplant Act

Procurement of certain human organs and tissue for transplantation is subject to the restrictions of the National Organ Transplant Act ("***NOTA***"), which prohibits the transfer of certain human organs, including skin and related tissue, for valuable consideration, but permits the reimbursement of reasonable expenses associated with the removal, transportation, implantation, processing, preservation, quality control and storage of human tissue and skin. Our wholly-owned subsidiary, MiMedx Tissue Services, LLC, is registered with the FDA as an establishment that manufactures human cells, tissues and cellular and tissue- based products and is involved with the recovery and storage of donated human amniotic membrane. We reimburse tissue banks, hospitals and physicians for their services associated with the recovery and storage of donated human tissue.

Tissue Bank Laws, Regulations, and Related Accreditation

As discussed above, we are required to register with the FDA as an establishment that manufactures human cells, tissues and cellular and tissue-based products. We are licensed, registered, or permitted as a tissue bank in California, New York, Delaware, Illinois, Oregon, and Maryland. Additionally, we received and actively maintain AATB accreditation. The AATB has issued operating standards for tissue banking. Compliance with these standards is required in order to become an AATB-accredited tissue establishment. AATB standards include specific requirements for recovery, screening, testing, labeling, processing, and storing of birth tissue. We believe we are compliant in all material respects with AATB standards and our state licensure requirements.

To the extent we sell our products outside of the United States, we also are subject to laws and regulations of foreign countries.

Other Healthcare Laws and Compliance Requirements

In the United States, our activities are potentially subject to regulation by various federal, state and local authorities in addition to the FDA, including CMS, other divisions of the HHS (e.g., the Office of Inspector General), the DOJ and individual United States Attorney offices within the DOJ, and state and local governments. These regulations include those described below. See also the discussion under "*Risk Factors - We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition."*

- The federal Anti-Kickback Statute, which is a criminal law that prohibits, among other things, any person from knowingly and willfully offering, soliciting, receiving or providing any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind, to induce or reward referrals, purchases or orders, or arranging for or recommending the purchase, order or referral of any item or service for which payment may be made in whole or in part by a federal healthcare program, such as the Medicare and Medicaid programs. The term "remuneration" has been broadly interpreted to include anything of value. The Patient Protection and Affordable Care Act amended the intent requirement of the federal Anti-Kickback Statute, so that a person or entity no longer needs to have actual knowledge of this statute or

specific intent to violate it. A conviction for violation of the Anti-Kickback Statute results in criminal fines and requires mandatory exclusion from participation in federal health care programs. Although there are a number of statutory exceptions and regulatory safe harbors to the federal Anti-Kickback Statute that protect certain common industry practices from prosecution, the exceptions and safe harbors are drawn narrowly, and arrangements may be subject to scrutiny or penalty if they do not fully satisfy all elements of an available exception or safe harbor.

- The federal False Claims Act ("***FCA***") imposes significant civil liability on any person or entity that knowingly presents, or causes to be presented, a claim for payment to the U.S. government, including the Medicare and Medicaid programs, that is false or fraudulent. The FCA also allows a private individual or entity as a whistleblower to sue on behalf of the government to recover civil penalties and treble damages. FCA liability is potentially significant in the healthcare industry because the statute provides for treble damages and mandatory penalties of between $11,181 and $22,363 per false claim or statement for penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015. As a result of a modification made by the Fraud Enforcement and Recovery Act of 2009, a claim includes "any request or demand" for money or property presented to the U.S. government. See also Item 3, "*Legal Proceedings.*"

- The federal Health Insurance Portability and Accountability Act of 1996 ("***HIPAA***") fraud and abuse provisions prohibit executing a scheme to defraud any healthcare benefit program, willfully obstructing a criminal investigation of a health care offense, or making false statements or concealing a material fact relating to payment for healthcare benefits, items or services.

- While manufacturers of human cell and tissue products regulated solely under Section 361 are not subject to the federal Physician Payments Sunshine Act and its implementing regulations (together with the Act, the "***Sunshine Act***"), in the future, if we expand our product portfolio beyond those regulated solely under Section 361, this law will require us (with certain exceptions) to report information to CMS related to certain payments or other transfers of value we make to U.S.-licensed physicians and teaching hospitals, and for reports submitted on or after January 1, 2022, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists and certified nurse-midwives. If we receive a BLA approval, the Sunshine Act would also require us to report annually certain ownership and investment interests held by U.S.-licensed physicians and their immediate family members. Such information will subsequently be made publicly available by CMS on the Open Payments website. There is a risk that CMS or another government agency may take the position that our products are not human cell and tissue products regulated solely under Section 361, and thereby assert that we are currently subject to the Sunshine Act, which could subject us to civil penalties and the administrative burden of having to comply with the law.

- Federal conflicts of interest laws, the Standards of Ethical Conduct for Employees of the Executive Branch, and local site policies for each federal institution we call upon govern our interactions with federal employees at our various government accounts (*e.g.*, DoD, VA, *etc*.) and impose a number of limitations on such interactions.

- There are state law equivalents of each of the above federal laws, such as anti-kickback and false claims laws, which may apply to items or services reimbursed by any third-party payer, including commercial insurers, many of which differ from each other in significant ways and often are not preempted by federal laws, thus complicating compliance efforts.

In addition, we may be subject to data privacy and security regulation by both the federal government and the states in which we conduct our business. HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act ("***HITECH***") and its implementing regulations, imposes certain requirements relating to the privacy, security and transmission of protected health information. Among other things, HITECH made HIPAA's privacy and security standards directly applicable to "business associates," independent contractors or agents of covered entities that receive or obtain protected health information in connection with providing a service on behalf of a covered entity. HITECH also created four new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates and possibly other persons and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions. In addition, state laws govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

Research and Development

Our research and development group has extensive experience in developing products for our target markets, and works to design products that are intended to improve patient outcomes, simplify techniques, shorten procedures, reduce hospitalization and rehabilitation times and, as a result, reduce costs. Our research and development group also works to establish scientific evidence in support of the use of our products. Clinical trials that demonstrate the safety, efficacy and cost effectiveness of our products are key to obtaining broader third-party reimbursement for our products. In addition to our internal staff, we contract with outside laboratories and physicians who aid us in our research and development process. See Part II, Item 7, below, for information regarding expenditures for research and development in each of the last three fiscal years.

Environmental Matters

Our tissue preservation activities generate a small amount of chemical and biomedical waste, consisting primarily of diluted alcohols and acids and human biological waste, including human tissue and body fluids removed during laboratory procedures. The biomedical waste generated by our tissue processing operations are placed in appropriately constructed and labeled containers and are segregated from other waste. We contract with third parties for transport, treatment, and disposal of our biomedical waste.

Human Capital

As of December 31, 2021, we had 811 full time employees. Generally, we consider our relationships with our employees to be good, and none of our employees are covered by a collective bargaining agreement. We conduct an annual survey of employees to monitor engagement levels and act on feedback received through this process.

We strive to promote diversity, inclusion and equal opportunity across the organization. In 2020, we formed an Inclusion and Diversity Council with the goal of supporting strategic initiatives and practices to foster an inclusive, diverse and equitable organization in order to better serve our customers and their patients. Women and minorities hold a third of the seats on our Board of Directors, including the Chair of the Board. As of December 31, 2021, 55% of our employees are women, and women comprised 56% and 57% of our new hires in 2021 and 2020, respectively. Additionally, as of December 31, 2021, approximately 22% of our workforce self-identifies as Black or African American, 7% as Hispanic or Latino, and 4% as other non-White (including American Indian, Alaskan Native, Asian, Native Hawaiian, or Other Pacific Islander).

We track turnover and retention for all employees. We also track time-to-hire and time-to-train for certain departments. In the last year, turnover has been elevated relative to historical trends. We have adopted specific measures and incentives to improve retention within the most affected organizational areas.

The health of our workforce is important to us, particularly that of our processing employees and other employees who, based on their specific job tasks and requirements, have not been able to work remotely during the ongoing COVID-19 pandemic. We employ approximately 77 highly-trained employees in our processing area. While we process donated tissue using aseptic techniques in a controlled environment, the manufacturing space is a confined space in which an employee with COVID-19 may spread the virus to other employees despite the use of personal protective equipment in all required areas at MiMedx. To date, we have been successful in mitigating these risks through a variety of measures, including screening employees for COVID-19 prior to entering our facilities at earlier stages of the pandemic, implementing a number of safety protocols, partnering with a testing facility to provide test kits and rapid results for employees that have symptoms or have a known risk of exposure, and supplying employees with appropriate personal protective equipment. However, there can be no assurance that we will continue to be successful. See Item 1A., Risk Factors, "*The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.*"

Available Information

We are required to file proxy statements, annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K with the SEC. The SEC maintains an internet site, www.sec.gov, where these reports are available free of charge. We also make these reports available free of charge on our website, www.mimedx.com, under the heading "*Investors–SEC Filings*." In addition, our Audit Committee, Compensation Committee, Ethics and Compliance Committee, and Nominating and Corporate Governance Committee Charters as well as our Code of Business Conduct and Ethics, are on our website under the heading "*Investors–Corporate Governance*." The reference to our website does not constitute incorporation by reference of any information contained on that site.

Item 1A. Risk Factors

An investment in our Common Stock involves a substantial risk of loss. Set forth below is a summary of the risks and uncertainties affecting our business that we currently believe to be material. We caution you to read the following risk factors, which have affected, and/or in the future could affect, our business, prospects, operating results, and financial condition. Additional risks and uncertainties not currently known to us or that we currently deem immaterial may also affect our business, prospects, operating results, and financial condition. Additional risks and uncertainties are described under other captions in this report and should also be considered by our stockholders. If any of these risks materialize, our business, financial condition or operating results could suffer. In this case, the trading price of our Common Stock could decline, and you may lose part or all of your investment.

Summary of Risk Factors

Risks Related to Our Business and Industry

- If we do not successfully execute our priorities, our business, operating results and financial condition could be adversely affected.
- We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.
- Rapid technological change could cause our products to become obsolete.
- Our products depend on the availability of tissue from human donors, and any disruption in supply could adversely affect our business.
- The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business.
- We depend on our senior leadership team and may not be able to retain or replace these employees or recruit additional qualified personnel.
- A portion of our revenues and accounts receivable come from government accounts.
- Our revenues depend on adequate reimbursement from public and private insurers and health systems.
- Our revenue, results of operations and cash flows may suffer upon the loss of a GPO or IDN.
- We contract with independent sales agents and distributors.
- Disruption of our processing could adversely affect our business, financial condition and results of operations.
- To be commercially successful, we must convince physicians, where appropriate, how and when our products are proper alternatives to existing treatments and that our products should be used in their procedures.
- If we cannot successfully address quality issues that may arise with our products, our brand reputation could suffer, and our business, financial condition, and results of operations could be adversely impacted.
- The formation of physician-owned distributorships ("***PODs***") could result in increased pricing pressure on our products or harm our ability to sell our products to physicians who own or are affiliated with those distributorships.
- We face the risk of product liability claims and may not be able to obtain or maintain adequate product liability insurance.
- The products we manufacture and process are derived from human tissue and therefore have the potential for disease transmission.
- We may implement a product recall or voluntary market withdrawal.
- A cyberattack or significant disruptions of information technology systems could adversely affect our business.
- We may expand or contract our business through acquisitions, divestitures, licenses, investments, and other commercial arrangements.
- New lines of business or new products and services may subject us to additional risks.
- Our international expansion and operations outside the U.S. expose us to risks.

Risks Related to Regulatory Approval of Our Products and Other Government Regulations

- Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future.
- If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance. Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.

- If any of the BLAs are approved, we would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance.
- Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.
- Our business is subject to extensive regulation by the FDA and other authorities, which is costly.
- We may be subject to fines, penalties, injunctions and other sanctions if we are deemed to be promoting the use of our products for unapproved, or off-label, uses.
- We and our sales representatives must comply with various federal and state anti-kickback, self-referral, false claims and similar laws.
- Our results of operations may be adversely affected by current and potential future healthcare reforms.
- We may fail to obtain or maintain foreign regulatory approvals to market our products in other countries.
- Federal and state laws that protect the privacy and security of personal information may increase our costs and limit our ability to collect and use that information and subject us to liability if we are unable to fully comply with such laws.

Risks Related to Our Intellectual Property

- Our ability to protect our intellectual property and proprietary technology through patents and other means is uncertain and may be inadequate.
- We may become subject to claims of infringement of the intellectual property rights of others.
- We may be subject to damages resulting from claims that we, our employees, or our independent contractors have wrongfully used or disclosed alleged trade secrets, proprietary or confidential information of our competitors or are in breach of non-competition or non-solicitation agreements with our competitors.

Risks Related to our Past Audit Committee Investigation, Consolidated Financial Statements, Internal Controls and Related Matters

- If we fail to maintain adequate internal control over financial reporting in the future, this could adversely affect our business, financial condition and operating results.
- Negative publicity, including publicity relating to or arising from the Restatement, the Audit Committee Investigation, or related matters, has had and could continue to have an adverse effect on our business, results of operations and financial condition.
- We are currently, in the past have been, and may in the future be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses and result in harm to our business.

Risks Related to the Securities Markets and Ownership of Our Common Stock

- Our substantial indebtedness may adversely affect our financial health.
- Our variable rate indebtedness under the Hayfin Loan Agreement subjects us to interest rate risk.
- EW Healthcare Partners and its interests may conflict with those of our other shareholders.
- Holders of shares of our Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.
- Our Series B Preferred Stock is convertible into shares of our Common Stock, and any such conversion may dilute the value of our Common Stock.
- The price of our Common Stock has been, and will likely continue to be, volatile.
- Securities analysts may elect not to report on our common stock or may issue negative reports that adversely affect the stock price.
- Fluctuations in revenue or results of operations could cause additional volatility in our stock price.
- We do not intend to pay cash dividends on our Common Stock.
- Certain provisions of Florida law and anti-takeover provisions in our organizational documents may discourage or prevent a change of control.

Risks Related to Our Business and Industry

If we do not successfully execute our priorities, our business, operating results and financial condition could be adversely affected.

Our priorities in our advanced wound care and surgical recovery business are to address large, underpenetrated market opportunities, domestically and internationally, including by launching new organic or inorganic products. We intend to implement and maintain rigorous CGMP standards throughout our entire supply chain and continue to advance the scientific body of evidence substantiating clinical efficacy, economic viability and the underlying mechanism of action for our PURION processed placental tissue platform through additional peer-reviewed publications, rigorous scientific research and clinical studies. We are also focused on pursuing FDA approval for mdHACM as a platform technology to treat musculoskeletal degeneration across multiple indications, beginning with initiating a Phase 3 KOA program.

We have sought and may continue to seek capital to implement our priorities. In developing our priorities, we evaluated many factors including, without limitation, those related to developments in our industry, customer demand, competition, regulatory developments, and general economic conditions. Actual conditions may be different from our assumptions, and we may not be able to successfully execute our priorities. If we do not successfully execute our priorities, or if actual results vary significantly from our assumptions, our business, operating results and financial condition could be adversely impacted.

We are in a highly competitive and evolving field and face competition from well-established tissue processors and medical device manufacturers, as well as new market entrants.

Our business is in a very competitive and evolving field. Competition from other tissue processors, medical device companies, and biotherapeutic companies, and from research and academic institutions, is intense, expected to increase and subject to rapid change and could be significantly affected by new product introductions. Established competitors and newer market entrants are investing in additional clinical research that may allow them to gain further clinician usage, adoption and payer coverage of their products. In addition, consolidation and cost containment measures in the healthcare industry may cause hospitals to consolidate their purchases with suppliers that have a broad portfolio of products. This would continue to give rise to demands for price concessions, which could have an adverse effect on our business, results of operations and financial condition. Further, competitors may introduce placental-based membrane products in the future at lower prices, adding new features or gaining additional reimbursement coverage, or utilize sales and marketing practices that negatively impact the industry. Further, they may copy our products outside the United States. The presence of this competition may lead to pricing pressure, which could have an adverse effect on our business, results of operations and financial condition.

Rapid technological change could cause our products to become obsolete and, if we do not enhance our product offerings through our research and development efforts, we may be unable to compete effectively.

The technologies underlying our products are subject to rapid and profound technological change. Competition intensifies as technical advances in each field are made and become more widely known. Others may develop services, products or processes with significant advantages over the products, services and processes that we offer or are seeking to develop. Any such occurrence could have an adverse effect on our business, results of operations and financial condition.

We plan to enhance and broaden our product offerings as part of a strategy that involves responding to changing customer demands and competitive pressure and technologies, among other factors. The success of any new product offering or enhancement to an existing product will depend on numerous factors, including our ability to:

- properly identify and anticipate physician and patient needs;
- acquire, through licensing, co-development or outright purchase, new technology developed outside of MiMedx;
- develop and introduce new products or product enhancements in a timely manner;
- adequately protect our intellectual property and avoid infringing upon the intellectual property rights of third parties;
- demonstrate the safety and efficacy of new products; and
- obtain the necessary regulatory clearances or approvals for new products or product enhancements.

If we do not develop and, when necessary, obtain regulatory clearance or approval for new products or product enhancements in time to meet market demand, or if there is insufficient demand for these products or enhancements, our results of operations and financial condition will suffer. Our research and development efforts may require a substantial investment of time and resources, including additional capital, before we are adequately able to determine the commercial viability of a new product, technology, material or other innovation. In addition, even if we are able to successfully develop enhancements or new generations of our products, these enhancements or new generations of products may not produce sales in excess of the costs of development, or they may never receive required regulatory approval and they may be quickly rendered obsolete by changing customer preferences or the introduction by our competitors of products embodying new technologies or features.

Our products depend on the availability of tissue from human donors, and any disruption in supply could adversely affect our business.

The success of our human tissue products depends upon, among other factors, the availability of tissue from human donors. Any failure to obtain tissue from our sources will interfere with our ability to effectively meet demand for our products incorporating human tissue. The availability of donated tissue could also be adversely impacted by regulatory changes, public opinion of the donor process and our own reputation in the industry. We may not be successful in our ability to scale tissue recovery efforts to meet the potential future demand of our pipeline. Obtaining adequate supplies of human tissue involves several risks, including limited control over availability (for example, access to hospital accounts and the number of consenting mothers), quality and delivery schedules. In addition, any interruption in the supply of any human tissue component could harm our ability to manufacture our products until a new source of supply, if any, could be found. We also utilize third-party providers of placental donations on an as-needed basis to mitigate risks but there can be no assurance that these third parties will be able to provide donated tissues at all times. We may be unable to find a sufficient alternative supply channel in a reasonable time period or on commercially reasonable terms, if at all, which would have an adverse effect on our business, results of operations and financial condition.

The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of the pandemic or the outbreak of other health epidemics could harm our business, results of operations, and financial condition.

The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and will likely continue to do so. See Item 7, "*Management's Discussion and Analysis - Results of Operations.*" The continuation or additional waves of the COVID-19 pandemic may continue to adversely affect our operations and increase our costs and expenses in numerous ways. For example:

- We source raw materials for our products from donated placentas from scheduled C-section births via a large, geographically-diverse network of donor hospitals. We may experience shortages of donated placentas if donors or our recovery specialists are excluded from hospitals, or if our donor recovery specialists contract COVID-19 and are required to quarantine. We experienced interruptions from a portion of our hospitals in certain geographic areas in the first half of 2020,in late 2021 and in early 2022. To date, we have been successful in mitigating this disruption to our supply by adding additional donor hospitals, increasing efforts at hospitals that did not impose access limits, and using third-party providers of donated placentas (where necessary and in accordance with MiMedx quality standards). However, there can be no assurance that our efforts to source raw materials for our products will continue to be successful, and we may experience shortages of raw materials, especially if the current pandemic, including further strains, or responses thereto intensify. Additionally, we may experience shortages of donated placentas if additional testing protocols are implemented for donated tissues based on guidance issued by the American Association of Tissue Banks, the FDA, or other standards, and are screened as ineligible.

- We process donated tissue using aseptic techniques in a controlled environment. However, the manufacturing space is a confined space area in which an infected employee may spread the virus to other employees despite the use of personal protective equipment required for all areas at MiMedx. To date, we have been successful in mitigating these risks through a variety of measures, including in the initial stages of the pandemic screening employees for COVID-19 prior to entering our facilities, implementing a number of safety protocols, partnering with a testing facility to provide test kits and rapid results for employees that have symptoms or have a known risk of exposure, and supplying appropriate employees with personal protective equipment. However, there can be no assurance that our efforts to prevent wide scale infections among our processing staff will continue to be successful, especially if the current pandemic or responses thereto intensify. If we experience widescale infections among our production staff, we may experience a shortage of finished goods.

- Our ability to sell our products was hampered by the pandemic. In many areas of the country, our sales force was excluded from hospitals and the offices of other health care providers. Additionally, many patients stayed away from hospitals and other medical facilities. This had an adverse effect on our revenues beginning late in the first quarter of 2020 and continuing into April 2020. By mid-May, access restrictions to hospitals and offices of healthcare providers had eased for our sales force, and significant numbers of patients began to return for treatment, including for elective procedures. This trend continued into the third and fourth quarters of 2020, where we saw net sales generally consistent with the comparable periods from 2019 on an "as-shipped" basis. In certain areas, local or regional surges of COVID-19 have continued, and future sales will depend on patients' willingness and ability to visit healthcare providers for care, and our sales force's access to healthcare providers. The timing, impact, and response to the pandemic has been uneven across the country. Subsequent waves may have a greater impact than did earlier waves,

depending on a myriad of factors, including, but not limited to, the availability and efficacy of vaccines, the emergence and severity of new variants of the virus, infection rates, mitigation efforts, and societal response. We are not able to estimate the future effect of COVID-19 on patient behavior and, consequently, future demand or the ability of providers to pay for our products.

- Similarly, our clinical researchers, clinical study coordinators, and their patients experienced restrictions in their access to hospitals and ability to access other healthcare providers, which slowed enrollment in our clinical trials. For example, from mid-March through mid-May 2020, many patients stayed away from hospitals and other medical facilities, which stalled enrollments in our clinical trials. We subsequently concluded enrollment in and completed our three IND trials, but plan to initiate new trials in 2022. If such access were to be restricted again, it might again impair or delay the initiation, approval and launch of future products or additional clinical trials. See "*Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future."*

If our leadership, employees, sales agents, suppliers, medical professionals, or users of our products are impacted by an epidemic, by illness, or through social distancing, quarantine or other precautionary measures taken in connection therewith, then our manufacturing operations, sales, demand for our products, and clinical trials may be adversely affected.

Disruptions to the health care system generally, such as if patients are unable or unwilling to visit health care providers, or if health care providers prioritize treatment of acute or communicable illnesses over wound care, have affected and may continue to adversely affect our revenues and results of operations.

The ultimate impact of the COVID-19 pandemic is highly uncertain and subject to change. We do not yet know the full extent of delays or impacts on our business, our clinical trials, healthcare systems or the global economy as a whole, or how long such effects will endure. The effects of the COVID-19 pandemic or other health epidemics could have an adverse impact on our business, results of operations and financial condition.

We depend on our senior leadership team and may not be able to retain or replace these employees or recruit additional qualified personnel, which would harm our business, results of operations and financial condition.

Our business and success are materially dependent on attracting and retaining members of our senior leadership team to formulate and execute the Company's business plans. Since June 2018, we have replaced a majority of our senior leadership team, and hired several new senior leaders.

Leadership changes can be inherently difficult to manage and may cause material disruption to our business or management team. Changes in senior management could also lead to an environment that presents additional challenges in recruiting and retaining employees, which could have an adverse effect on our business, results of operations and financial condition. We experienced difficulties in recruiting due to legal and business uncertainties resulting from the issues that were the subject of the Audit Committee Investigation.

Our future success will also depend, in part, upon our ability to attract and retain skilled personnel, including sales, managerial and technical personnel. There can be no assurance that we will be able to continue to find and attract additional qualified employees to support our expected growth or retain any such personnel.

A portion of our revenues and accounts receivable come from government accounts.

Some of our revenues are derived from sales, both direct and through a distributor, to the government. Any disruption of our products on the *FSS***,** or of the use of Indefinite Delivery, Indefinite Quantity contracts ("***IDIQ***"), or any change in the way the government purchases products like ours or the price it is willing to pay for our products, could adversely affect our business, results of operations and financial condition.

Our revenues depend on adequate reimbursement from public and private insurers and health systems.

Our success depends on the extent to which our customers receive adequate reimbursement for the costs of our products and related treatments from third-party payers, including government healthcare programs, such as Medicare and Medicaid, as well as private insurers and health systems. Government and other third-party payers attempt to contain healthcare costs by limiting both coverage and the level of reimbursement of medical products, particularly new products. Therefore, significant

uncertainty may exist as to the reimbursement status of new healthcare products by third-party payers. Although EPIFIX and EPICORD have coverage with the majority of large payers, a significant number of public and private insurers and health systems currently do not cover or reimburse our other products.

If we are not successful in obtaining adequate coverage and reimbursement for our products from these third-party payers, it could have an adverse effect on market acceptance of our products. Inadequate reimbursement levels would likely also create downward price pressure on our products. Even if we do succeed in obtaining widespread coverage and reimbursement rates or policies for our products, future changes in coverage or reimbursement rates or policies could have a negative impact on our business, financial condition and results of operations.

Further, we have experienced some reluctance by payers to cover products for applications other than those for which we have published clinical efficacy data. Currently, there are four MACs that do not have a written medical policy in the form of a Local Coverage Determination ("***LCD***") or a specific article for skin substitutes. In the absence of an LCD, MACs will reimburse based on medical necessity. If these three MACs created written medical policy criteria that limit providers to the use of products that have published clinical evidence for a specific wound type such as Diabetic Foot Ulcer or Venous Leg Ulcer only, we could experience a negative impact on revenue. Our future revenues could experience additional declines if other MACs or other payers further limit their coverage of our products to specific clinical uses. This decline would adversely affect our business, financial condition and results of operations.

Our revenue, results of operations and cash flows may suffer upon the loss of a Group Purchasing Order or Integrated Delivery Network.

As with many manufacturers in the healthcare space, the Company contracts with Group Purchasing Organizations (***"GPOs"***) and Integrated Delivery Networks (***"IDNs"***) to establish contracted pricing and terms and conditions for the members of GPOs and IDNs. Approximately three-quarters of our sales in the year ended December 31, 2021 came from customers that are members of our primary GPOs or IDNs.

Our agreements with GPOs and IDNs allow us to sell our products efficiently to large groups of customers. Our agreements with GPOs and IDNs typically provide their members with favorable ordering terms and conditions and access to favorable product pricing. These customers purchase our product through GPO and IDN arrangements in part because of the favorable pricing and terms and conditions. If our agreement with any GPO or IDN is terminated or expires without being extended, renewed or renegotiated, this could adversely affect our revenue, results of operations and cash flows.

We contract with and are dependent upon independent sales agents and distributors.

In 2021, approximately 20% of our sales were through our relationships with independent agents, and we also use a small number of distributors, primarily outside the United States, and may use more in the future. (Sales agents act directly on behalf of MiMedx to arrange sales, while distributors take title to product and may set their own prices.) See Note 15, "*Revenue*" to our consolidated audited consolidated financial statements included in Item 8, Consolidated Financial Statements and Supplementary Data.

If our relationships with our independent sales agents were terminated for any reason, it could materially and adversely affect our revenues and profits. Because the independent agent often controls the customer relationships within its territory, there is a risk that if our relationship with the agent ends, our relationship with the customer will be lost.

Because our agents and distributors are not employees, there is a risk we will be unable to ensure that our sales processes, compliance safeguards, and related policies will be adhered to despite our communication and training of agents and distributors regarding these requirements. Furthermore, if we fail to maintain relationships with our key independent agents, or fail to ensure that our independent agents adhere to our sales processes, compliance safeguards and related policies, there could be an adverse effect on our business, results of operations, and financial condition.

We may obtain the assistance of additional distributors and independent sales representatives to sell products in certain sales channels, particularly in territories and fields where agents are commonly used. Our success is partially dependent upon our ability to train, retain and motivate our independent sales agencies, distributors, and their representatives to appropriately and compliantly sell our products in certain territories or fields. They may not be successful in implementing our marketing plans or compliance safeguards. Some of our independent sales agencies and distributors do not sell our products exclusively and may offer similar products from other companies. Our independent sales agencies and distributors may terminate their contracts with us, may devote insufficient sales efforts to our products or may focus their sales efforts on other products that produce greater commissions for them, which could have an adverse effect on our business, results of operations and financial

condition. We also may not be able to find additional independent sales agencies and distributors who will agree to appropriately and compliantly market or distribute our products on commercially reasonable terms, if at all. If we are unable to establish new independent sales representative and distribution relationships or renew current sales agency and distribution agreements on commercially acceptable terms, our business, financial condition, and results of operations could be materially and adversely affected.

Disruption of our processing facilities could adversely affect our business, financial condition and results of operations.

Our business depends upon the continued operation of our processing facilities in Marietta, Georgia and Kennesaw, Georgia. Risks that could impact our ability to use these facilities include the occurrence of natural and other disasters, the outbreak of pandemics, and the need to comply with the requirements of directives from government agencies, including the FDA. See above, for example, " - - *The COVID-19 pandemic and governmental and societal responses thereto have adversely affected our business, results of operations and financial condition, and the continuation of COVID-19 or the outbreak of other health epidemics could harm our business, results of operations, and financial condition."*

Either of our two processing facilities can serve as a redundant processing facility for our Section 361 products in the event the other facility experiences a disaster event. For our 351 products, we have transitioned manufacturing to our Kennesaw, Georgia facility to comply with CGMP standards, and implemented these standards for upstream and downstream supply chain activities at our Marietta, Georgia facility. However, if our processing facilities were to become unavailable, this could have a material adverse effect on our business, financial condition and results of operations during the period of such unavailability.

To be commercially successful, we must educate physicians, where appropriate, how and when our products are proper alternatives to existing treatments and that our products should be used in their procedures.

We believe physicians will only use our products if they determine, based on their independent medical judgment and experience, clinical data, and published peer reviewed journal articles, that the use of our products in a particular procedure is a favorable alternative to other treatments. Physicians may be hesitant to change their existing medical treatment practices for the following reasons, among others:

- their lack of experience with advanced therapeutics, such as our placenta-based allografts;
- lack of evidence supporting additional patient benefits of advanced therapeutics, such as our placenta-based allografts, over conventional methods in certain therapeutic applications;
- perceived liability risks generally associated with the use of new products and procedures;
- limited availability of reimbursement from third-party payers;
- more favorable reimbursement for other market-available products; and
- the time that must be dedicated to physician training in the use of our products.

If we cannot successfully address quality issues that may arise with our products, our brand reputation could suffer, and our business, financial condition, and results of operations could be adversely impacted.

In the course of conducting our business, we must adequately address quality issues that may arise with our products, as well as defects in third-party components included in our products, as any quality issues or defects may negatively impact physician use of our products. Although we have established internal procedures to minimize risks that may arise from quality issues, we may not be able to eliminate or mitigate occurrences of these issues and associated liabilities. If the quality of our products does not meet the expectations of physicians or patients, then our brand reputation could suffer and our business could be adversely impacted. We must also ensure any promotional claims made for our products comport with government regulations.

The formation of physician-owned distributorships ("PODs") could result in increased pricing pressure on our products or harm our ability to sell our products to physicians who own or are affiliated with those distributorships.

PODs are medical product distributors that are owned, directly or indirectly, by physicians. These physicians derive a proportion of their revenue from selling or arranging for the sale of medical products for use in procedures they perform on their own patients at hospitals that agree to purchase from or through the POD, or that otherwise furnish ordering physicians with income that is based directly or indirectly on those orders of medical products. The Office of Inspector General ("***OIG***") of the Department of Health & Human Services has issued a Special Fraud Alert on PODs, indicating that they are inherently suspect under the federal Anti-Kickback Statute.

Our commercial strategy emphasizes selling directly to healthcare providers and, to a limited extent, through distributors. To our knowledge, we do not directly sell to or distribute any of our products through PODs. The number and strength of PODs in the industry may continue to grow as economic pressures increase throughout the industry and hospitals, insurers and physicians search for ways to reduce costs, and, in the case of the physicians, identify additional sources to increase their incomes. These companies and the physicians who own, or partially own, PODs may have significant market knowledge, access to and influence on the physicians who use our products and the hospitals that purchase our products, and we may not be able to compete effectively for business from physicians who own PODs.

We face the risk of product liability claims and may not be able to obtain or maintain adequate product liability insurance.

Our business exposes us to the risk of product liability claims that are inherent in the manufacturing, processing and marketing of human tissue products. We may be subject to such claims if our products cause, or appear to have caused, an injury. Claims may be made by patients, healthcare providers or others selling our products. Product liability claims can be expensive to defend (regardless of merit), divert our management's attention, result in substantial damage awards against us, harm our reputation, and generate adverse publicity, which could result in the withdrawal of, or reduced acceptance of, our products in the market.

Although we have product liability insurance that we believe is adequate, this insurance is subject to deductibles and coverage limitations, and we may not be able to maintain this insurance at an acceptable cost or on acceptable terms or be able to secure increased coverage (if needed), nor can we be sure that existing or future claims against us will be covered by our product liability insurance. Moreover, the existing coverage of our insurance or any rights of indemnification and contribution that we may have may not be sufficient to offset existing or future claims. If we are unable to maintain product liability insurance at an acceptable cost or on acceptable terms with adequate coverage or otherwise protect ourselves against potential product liability claims or we underestimate the amount of insurance we need, we could be exposed to significant liabilities, which may harm our business. A product liability claim or other claim with respect to uninsured liabilities or for amounts in excess of insured liabilities could result in significant costs and significant harm to our business. Even if a claim is not successful, defending such claim would be time-consuming and expensive, may damage our reputation in the marketplace, and would likely divert our management's attention.

The products we manufacture and process are derived from human tissue and therefore have the potential for disease transmission.

The utilization of human tissue creates the potential for transmission of communicable disease, including, without limitation, human immunodeficiency virus, viral hepatitis, syphilis and other viral, fungal or bacterial pathogens. We are required to comply with federal and state regulations intended to prevent communicable disease transmission.

We maintain strict quality controls designed in accordance with CGTP to ensure the safe procurement and processing of our tissue, including terminal sterilization of our products. These controls are intended to prevent the transmission of communicable disease. However, risks exist with any human tissue implantation. We are also implementing and maintaining CGMP systems to comply with the regulations that will apply to our Section 351 HCT/Ps, and believe this provides an added level of quality throughout our manufacturing process. However, negative publicity concerning disease transmission from other companies' improperly processed donated tissue could have a negative impact on the demand for our products and adversely affect our business, financial condition and results of operations.

We may implement a product recall or voluntary market withdrawal, which could significantly increase our costs, damage our reputation, disrupt our business and adversely affect our business, results of operations and financial condition.

The processing and marketing of our tissue products involves an inherent risk that our tissue products or processes may not meet applicable quality standards and requirements. In the event that one or more of our products experiences a failure to meet such standards and requirements, we may voluntarily implement a recall or market withdrawal or may be required to do so by a regulatory authority.

A recall or market withdrawal of one of our products could be costly and may divert management resources. A recall or withdrawal of one of our products, or a similar product processed by another entity, also could impair sales of our products as a result of confusion concerning the scope of the recall or withdrawal, or as a result of the damage to our reputation for quality and safety.

A cyberattack or significant disruptions of our information technology systems could adversely affect our business, results of operation and financial condition.

A cyberattack, a disruption in availability, or the unauthorized alteration of systems or data could adversely affect our business, results of operations and financial condition. We rely on technology for day-to-day operations as well as positioning to enhance our stance in the market. We generate intellectual property that is central to the future success of the business and transmit large amounts of confidential information. Additionally, we collect, store and transmit confidential information of customers, patients, employees and third parties. We also have outsourced significant elements of our operations to third parties, including significant elements of our information technology infrastructure, and, as a result, we are managing many independent vendor relationships with third parties who may or could have access to our confidential information. The continually changing threat landscape of cybersecurity today makes our systems potentially vulnerable to service interruptions or to security breaches from inadvertent or intentional actions by our employees, partners, and vendors, and from attacks by malicious third parties, including supply chain attacks originating at our third-party partners. Such attacks are of ever-increasing levels of sophistication. Attacks are made by individuals or groups that have varying levels of expertise, some of which are technologically advanced and well-funded including, without limitation, nation states, organized criminal groups and hacktivists organizations.

To ensure protection of our information, we have invested in cybersecurity and have implemented processes and procedural controls to maintain the confidentiality and integrity of such information. We measure these controls and their success through a cybersecurity framework that is based on industry standards. While we have invested in the protection of our data and technology, there can be no guarantees that our efforts will prevent all service interruptions or security breaches. Any such interruption or breach of our systems could adversely affect our business operations and result in the loss of critical or sensitive confidential information or intellectual property, and could result in financial, legal and reputational harm to our business, including legal claims and proceedings, liability under laws that protect the privacy of personal information, government enforcement actions and regulatory penalties, as well as remediation costs. We also maintain cyber liability insurance. However, this insurance may not be sufficient to cover the financial, legal or reputational losses that may result from an interruption or breach of our systems.

We may expand or contract our business through acquisitions, divestitures, licenses, investments, and other commercial arrangements with other companies or technologies, which may adversely affect our business, results of operations and financial condition.

We periodically evaluate opportunities to acquire companies or divest divisions, technologies, products, and rights through licenses, distribution agreements, investments, and outright acquisitions to grow our business. In connection with one or more of those transactions, we may, subject to the requirements and limitations set forth in our secured credit agreement (the "***Hayfin Loan Agreement***") with Hayfin Services, LLP ("***Hayfin***") an affiliate of Hayfin Capital Management LLP:

- issue additional equity securities that would dilute the value of equity currently held by our shareholders;
- divest or license existing products or technology;
- use cash that we may need in the future to operate our business;
- incur debt that could have terms unfavorable to us or that we might be unable to repay;
- structure the transaction in a manner that has unfavorable tax consequences, such as a stock purchase that does not permit a step-up in the tax basis for the assets acquired;
- be unable to realize the anticipated benefits, such as increased revenues, cost savings, or synergies from additional sales; and
- be unable to secure the services of key employees related to the transaction(s).

Any of these items could adversely affect our revenues, results of operations and financial condition. Business acquisitions also involve the risk of unknown liabilities associated with the acquired business, which could be material. Incurring unknown liabilities or the failure to realize the anticipated benefits of any transaction could adversely affect our business if we are unable to recover our initial investment. Inability to recover our investment, or any write off of such investment, associated goodwill or assets could have an adverse effect on our business, results of operations and financial condition.

New lines of business or new products and services may subject us to additional risks.

From time to time, we may implement or may acquire new lines of business or offer new products and services within existing lines of business. There are risks and uncertainties associated with these efforts, particularly in instances where the markets are not fully developed or are evolving. In developing and marketing new lines of business and new products and services, we may invest significant time and resources. External factors, such as regulatory compliance obligations, competitive alternatives, and shifting market preferences, may also impact the successful implementation of a new line of business or a new product or service. Failure to successfully manage these risks in the development and implementation of new lines of

business or new products or services could have an adverse effect on our business, results of operations and financial condition.

Our international expansion and operations outside the U.S. expose us to risks associated with international sales and operations.

We are pursuing further expansion outside the U.S., including in Japan. Managing a global organization is difficult, time consuming and expensive. Our ability to conduct international operations is affected by many of the same risks we face in our U.S. operations, as well as unique costs and difficulties of managing international operations. Risks inherent in international operations also include, among others, potential adverse tax consequences, greater difficulty in enforcing intellectual property rights, risks associated with the Foreign Corrupt Practices Act and local anti-bribery law compliance, and other international regulations. These regulations may limit our ability to market, sell, distribute or otherwise transfer our products to prohibited countries or persons. International regulations may also limit what promotional claims we may make for our products.

Compliance with these regulations and laws is costly, and failure to comply with applicable legal and regulatory obligations could adversely affect us in a variety of ways that include, without limitation, significant criminal, civil and administrative penalties, including imprisonment of individuals, fines and penalties, denial of export privileges, seizure of shipments and restrictions on certain business activities. Also, the failure to comply with applicable legal and regulatory obligations could result in the disruption of our distribution and sales activities.

These risks may limit or disrupt our expansion, restrict the movement of funds or result in the deprivation of contractual rights or the taking of property by nationalization or expropriation without fair compensation. Operating outside of the U.S. also requires significant management attention and financial resources.

Risks Related to Regulatory Approval of Our Products and Other Government Regulations

Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future.

The products we manufacture and process are derived from human tissue. Amniotic and other birth tissue have in the past generally been regulated as *HCT/P* and were therefore eligible to be subject to regulation solely under Section 361 ("***Section 361 HCT/P***") depending on whether the specific product at issue and the claims made for it were consistent with the applicable criteria. HCT/Ps that do not meet these criteria are subject to more extensive regulation as drugs, medical devices, biological products, or combination products. These HCT/Ps must comply with both the FDA's requirements for HCT/Ps and the requirements applicable to biologics, devices or drugs, including pre-market clearance or approval from the FDA. Obtaining FDA pre-market clearance or approval involves significant time and investment by the Company.

In November 2017, the FDA released a guidance document entitled "*Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue - Based Products: Minimal Manipulation and Homologous Use - Guidance for Industry and Food and Drug Administration Staff*." The document confirmed the FDA's stance that all micronized amniotic products require a biologics license to be lawfully marketed in the United States. It also confirmed that sheet forms of amniotic tissue are appropriately regulated as solely Section 361 HCT/Ps when manufactured in accordance with 21 CFR Part 1271 and intended for use as a barrier or covering. The final guidance also stated that the FDA intended to exercise enforcement discretion under limited conditions with respect to the IND application and pre-market approval requirements for certain HCT/Ps through November 2020, which was later extended through May 2021. The FDA's approach was risk-based, and the Guidance clarified that high-risk products and uses could be subject to immediate enforcement action.

After May 31, 2021, the Company has not marketed or sold its micronized products in the United States, has requested the return of unused consignment inventory as of that date, and does not intend to sell such products in the United States until the FDA grants pre-market approval. Our sales of such products for all uses was $17.6 million, $31.8 million, and $42.4 million, respectively, in 2021, 2020, and 2019, primarily in the United States. However, we are pursuing the BLA pre-market approval process for certain of our micronized products, as more fully discussed under "Business - Government Regulation." The loss of our ability to market and sell our micronized products has had an adverse impact on our revenues, business, financial condition and results of operations.

Also, the Company currently markets EPICORD and AMNIOCORD, tissue products derived from the protective covering and extracellular matrix cushioning layers of the human umbilical cord, as providing a protective environment or as a barrier. In warning letters to several companies marketing human umbilical cord derived products for a variety of uses, the FDA has stated that those products fail to meet one or more of the Section 361 criteria, including the minimal manipulation criterion, the dependence on the metabolic activity of living cells for their primary function criterion, and the homologous use criterion, as "the product is not intended to perform the same basic function or functions of umbilical cord in the recipient as in the donor, such as serving as a conduit." We are engaged with the FDA regarding the classification of our umbilical cord-derived products. If the FDA makes a final determination that our umbilical cord products do not meet the requirements for regulation solely under Section 361, then pre-market clearance or approval will be required for those products. The loss of our ability to market and sell our umbilical cord derived products would have an adverse impact on our revenues, business, financial condition and results of operations. Included in net sales were sales of umbilical cord-derived products totaling $23.6 million, $16.1 million, $17.9 million, respectively, in 2021, 2020, and 2019, almost entirely in the United States.

Any future regulatory changes could also have adverse consequences for us and make it more difficult or expensive for us to conduct our business by requiring pre-market clearance or approval and compliance with additional post-market regulatory requirements with respect to those products. For example, the FDA may in the future impose conditions, such as labeling restrictions, and the requirement that a product be manufactured in compliance with CGMP. Although the Company is preparing for these requirements in connection with its pursuit of a BLA for certain of its products, earlier compliance with these conditions would require significant additional time and cost investments by the Company. Moreover, increased regulatory scrutiny within the industry in which we operate could lead to increased regulation of HCT/Ps, including Section 361 HCT/Ps, which could ultimately increase our costs and adversely impact our business, results of operations and financial condition. If the FDA approves the BLAs we seek, we will incur increased compliance costs on an ongoing basis. See " - - *If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance*."

If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance.

Products subject to the FDA's BLA requirements must comply with a range of pre- and post-market provisions. Pre-market compliance includes the conduct of clinical trials in support of BLA approval, the development and submission of a BLA, and the production of product for use in the clinical trials that meets FDA's quality expectations. We have been making enhancements in our fixed plant as well as incurring costs and reduced product yields from testing products to ensure quality, identity, purity, and potency. Post-approval requirements for BLA products include: compliance with CGMP, which will require us to comply with promotional and labeling requirements, which limit our ability to make claims about regulated products; submission of annual reports in appropriate circumstances; compliance with the FDA's "Biological Product Deviation Reporting System," when applicable; submission of adverse events; reporting and correcting product problems within established timeframes; recalling or stopping the manufacture of a product if a significant problem is detected; complying with the appropriate laws and regulations relevant to the biologics licensed and identifying any changes needed to help ensure product quality. In some instances, the FDA can also require that applicants conduct post-market studies or trials of the product. This additional compliance burden may increase costs, and failure to comply with such requirements may subject the Company to sanctions that would have an adverse impact on our business, results of operations and financial condition.

Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time consuming and may impede our ability to fully exploit our technologies.

The process of obtaining regulatory clearances or approvals to market a biological product or medical device from the FDA or similar regulatory authorities outside of the U.S. may be costly and time consuming, and such clearances or approvals may not be granted on a timely basis, or at all. We are pursuing approval of BLAs for certain of our micronized products, but have not yet submitted a BLA for review. Additionally, the FDA may take the position that some of the other products that we currently market require a BLA as well. Some of the future products and enhancements to our current products that we expect to develop or may acquire and market may require marketing clearance or approval from the FDA. However, clearance or approval may not be granted with respect to any of our products or enhancements and further FDA review may add delays that could adversely affect our ability to market such products or enhancements.

The process of obtaining an approved BLA, including clinical trial development and execution as well as manufacturing processes, requires the expenditure of substantial time, effort and financial resources and may take years to complete. The fee for filing a BLA and program fees payable with respect to any establishment that manufactures biologics are substantial. Additionally, there are significant costs associated with clinical trials that can be difficult to accurately estimate until a BLA is approved. Clinical trials may not be successful or may return results that do not support approval. Moreover, data obtained from clinical trials are not always conclusive and may be susceptible to varying interpretations, which could delay, limit or

prevent regulatory approval. The FDA may not grant approval on a timely basis, or at all, or we may decide not to pursue a BLA for certain products or indications, or need to conduct additional trials for a given indication. Additionally, the FDA may limit the indications for use or place other conditions on any approvals that could restrict the commercial application of the products. If we do receive approval, some types of changes to the approved product, such as adding new indications or doses, manufacturing changes and additional labeling claims, are subject to further testing requirements and FDA review and approval. Our revenues will be adversely affected if we fail to obtain BLA approvals on a timely basis or at all, or if the FDA limits the indications for use or requires other conditions that restrict the commercial application of our products.

Clinical trials will be necessary to support future BLA submissions and potential product approvals by the FDA. The clinical trial process is lengthy and expensive with uncertain outcomes, and often requires the enrollment of large numbers of patients, and suitable patients may be difficult to identify and recruit. Delays or failures in our clinical trials could prevent us from commercializing any modified or new products and would adversely affect our business, operating results and prospects.

The results of early clinical trials are not necessarily predictive of future results, and any product we advance into clinical trials may not have favorable results in later clinical trials. Our interpretation of data and results from our clinical trials does not ensure that we will achieve similar results in future clinical trials. In addition, clinical data are often susceptible to various interpretations and analyses, and many companies that have believed their products performed satisfactorily in earlier clinical trials or retrospective studies have nonetheless failed to replicate results in later clinical trials. Products in later stages of clinical trials may fail to show the desired safety and efficacy despite having progressed through nonclinical studies and earlier clinical trials and retrospective studies, and such failures can occur at any stage of clinical testing. Our clinical studies may produce negative or inconclusive results, and we may decide, or regulators may require us, to conduct additional clinical and non-clinical testing in addition to those we have planned.

The initiation and completion of a trial may be prevented, delayed, or halted for numerous reasons, including, but not limited to, the following:

- regulatory authorities do not approve a clinical study protocol, force us to modify a previously approved protocol, or place a clinical study on hold;
- patients do not enroll in, or enroll at a lower rate than we expect or need, or do not complete a clinical study. For instance, in 2020, the time necessary to complete our studies was longer than expected as a result of access restrictions at hospitals and health care provider facilities as a result of the COVID-19 Pandemic;
- patients or investigators do not comply with study protocols;
- the FDA may require us to submit data on a greater number of patients than we originally anticipated and/or for a longer follow-up period or change the data collection requirements or data analysis applicable to our clinical trials;
- patients do not return for post-treatment follow-up at the expected rate;
- patients may experience serious or unexpected adverse side effects for a variety of reasons that may or may not be related to our product causing a clinical trial study to be put on hold;
- we may be unable to recruit a sufficient number of clinical trial sites;
- sites participating in an ongoing clinical study may withdraw, requiring us to engage new sites;
- third-party clinical investigators decline to participate in our clinical studies, do not perform the clinical studies on the anticipated schedule, or act in ways inconsistent with the investigator agreement, clinical study protocol, good clinical practices, or other regulatory requirements;
- third-party entities do not perform data collection and analysis in a timely or accurate manner;
- we may have to amend clinical trial protocols or conduct additional studies to reflect changes in regulatory requirements or guidance, which we may be required to submit to regulatory authorities for approval;
- the cost of clinical trials may be greater than we anticipate; and
- regulators or other reviewing bodies may fail to approve or subsequently find fault with our manufacturing processes or facilities, the supply of materials necessary to conduct clinical trials may be insufficient, inadequate or not available at an acceptable cost, or we may experience interruptions in supply.

Any of these occurrences may significantly harm our business, financial condition and prospects. In addition, many of the factors that cause, or lead to, a delay in the commencement or completion of clinical trials may also ultimately lead to the denial of certification or regulatory approval of our product candidates.

Our ability to consistently and reliably manufacture our biologic products will be key to the marketing of any future Section 351 products. Also, our current manufacturing facilities may be inadequate to produce sufficient quantities if our planned BLA program is approved.

The manufacture of biologic products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls, and the approval of BLAs require one to demonstrate the ability to manufacture pursuant to specified chemistry and manufacturing controls. Manufacturers of biologic products often encounter difficulties in production, particularly in scaling up initial production as would be the case at any new facility. These problems

can include difficulties with production costs and yields, quality control (including stability of the product candidate and quality assurance testing), shortages of qualified personnel, and compliance with strictly enforced federal, state and foreign regulations. If we were to encounter any of these difficulties, or otherwise fail to comply with our obligations under applicable regulations, then our ability to provide product candidates to patients in our clinical trials or commercially would be jeopardized, and any delay or interruption in the supply of product could delay the commercial launch of the product or impair our ability to meet demand for the product.

Our products can be manufactured only in a facility that has undergone a satisfactory inspection by the FDA and other relevant regulatory authorities. While we currently possess redundant manufacturing capacity, we may not be able to replace manufacturing capacity for our products quickly if we were unable to use our manufacturing facilities as a result of a fire, natural disaster (including an earthquake), equipment failure, or other difficulty, or if such facilities were deemed not in compliance with the regulatory requirements and such non-compliance could not be rapidly rectified. An inability or reduced capacity to manufacture our products could have a material adverse effect on our business, financial condition, and results of operations.

Our existing manufacturing facilities have been adequate for the products we currently sell, but may become inadequate for future products if our planned BLA for knee osteoarthritis is approved. Therefore, we have begun planning for additional manufacturing capacity. Failure to adequately expand capacity could delay commercialization of our current or future product candidates, depriving us of potential product revenue. Any manufacturing problem could be disruptive to our operations and result in lost sales.

Our business is subject to extensive regulation by the FDA and other authorities, which is costly, and our failure to comply could result in negative effects on our business, results of operations and financial condition.

As discussed above, the FDA has specific regulations governing our tissue-based products, or HCT/Ps. The FDA has broad post-market and regulatory and enforcement powers, even for Section 361 HCT/Ps. The FDA's regulation of HCT/Ps includes requirements for registration and listing of products, donor screening and testing, processing and distribution, labeling, record keeping and adverse-reaction reporting, and inspection and enforcement.

HCT/Ps that are regulated as drugs, biological products or medical devices are subject to even more stringent regulation by the FDA. Even if pre-market clearance or approval is obtained, the approval or clearance may place substantial restrictions on the indications for which the product may be marketed or to whom it may be marketed, may require warnings to accompany the product or impose additional restrictions on the sale or use of the product. In addition, regulatory approval is subject to continuing compliance with regulatory standards, including the FDA's quality system regulations.

If we fail to comply with the FDA regulations regarding our tissue products, the FDA could take enforcement action, including, without limitation, any of the following sanctions and the manufacture of our products or processing of our tissue could be delayed or terminated:

- untitled letters, warning letters, cease and desist orders, fines, injunctions, and civil penalties;
- recall or seizure of our products;
- operating restrictions, partial suspension or total shutdown of production;
- refusing our requests for clearance or approval of new products;
- withdrawing or suspending current applications for approval or approvals already granted;
- refusal to grant export approval for our products; and
- criminal prosecution.

The FDA's regulation of HCT/Ps may continue to evolve. Complying with any such new regulatory requirements may entail significant time delays and expense, which could have an adverse effect on our business, results of operations and financial condition.

The AATB has issued operating standards for tissue banking. Compliance with these standards is a requirement in order to become an accredited tissue bank. In addition, some states have their own tissue banking regulations.

In addition, procurement of certain human organs and tissue for transplantation is subject to the restrictions of the NOTA, which prohibits the transfer of certain human organs, including skin and related tissue for valuable consideration, but permits the reasonable payment associated with the removal, transportation, implantation, processing, preservation, quality control and storage of human tissue and skin. We reimburse tissue banks, hospitals and physicians for their services associated with the recovery and storage of donated human tissue. Although we have independent third party appraisals that confirm the reasonableness of the service fees we pay, if we were to be found to have violated NOTA's prohibition on the sale or transfer

of human tissue for valuable consideration, we could potentially be subject to criminal enforcement sanctions, which could adversely affect our results of operations.

Finally, we and other manufacturers of skin substitutes are required to provide average *ASP* information to CMS on a quarterly basis. The Medicare payment rates are updated quarterly based on this ASP information. If a manufacturer is found to have made a misrepresentation in the reporting of ASP, such manufacturer is subject to civil monetary penalties of up to $10,000 for each misrepresentation for each day in which the misrepresentation was applied, and potential False Claims Act liability. See "*We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition."*

We may be subject to fines, penalties, injunctions and other sanctions if we are deemed to be promoting the use of our products for unapproved, or off-label, uses.

As a general rule, FDA regulations require that the marketing of 361 HCT/Ps only be for appropriate homologous uses, and that the promotion of pre-approved biological products or devices only be for FDA-approved indications. Generally, unless the products are approved by the FDA for alternative uses, the FDA contends that we may not make claims about the safety or effectiveness of our products, or promote them as safe or effective for uses other than those specifically approved by the FDA. Such limitations present a risk that the FDA or other federal or state law enforcement authorities could determine that the nature and scope of our sales, marketing and support activities, though designed to comply with all FDA requirements, constitute the promotion of our products for an unapproved use in violation of the federal FD&C Act. We also face the risk that the FDA or other governmental authorities might pursue enforcement based on past activities that we have discontinued or changed, including sales activities, prior marketing materials, arrangements with institutions and doctors, educational and training programs and other activities.

Investigations concerning the promotion of unapproved product uses and related issues are typically expensive, disruptive and burdensome and generate negative publicity. If our promotional activities are found to be in violation of the law, we may face significant legal action, fines, penalties, and even criminal liability and may be required to substantially change our sales, promotion, grant and educational activities. There is also a possibility that we could be enjoined from selling some or all of our products for any unapproved use. In addition, as a result of an enforcement action against us or any of our executive officers, we could be excluded from participation in government healthcare programs such as Medicare and Medicaid.

However, under the Guidance, the FDA exercised enforcement discretion under limited conditions with respect to the investigative new drug application and pre-market approval requirements for certain HCT/Ps through May 31, 2021. We continued to market our micronized products (mdHACM) and our particulate product (AMNIOFILL) under this policy of enforcement discretion in the United States until May 31, 2021, while at the same time pursuing BLAs for certain of our micronized products in specific clinical applications. After May 31, 2021, we no longer sell our micronized and particulate products in the United States, and do not intend to sell such products in the United States until the FDA grants pre-market approval. We will ultimately only be able to market such products for indications that have been cleared or approved by the FDA.

Nevertheless, while we believe we are fully in compliance with the FDA's Guidance on HCT/Ps, there can be no assurance that we have correctly interpreted the FDA Guidance, or that we will not need to discontinue marketing a product and/or may be subject to fines, penalties, injunctions, and other sanctions if we are deemed to be promoting the use of our products for unapproved uses. Such regulatory penalties by the FDA could adversely affect our business and results of operations.

We and our sales representatives, whether employees or independent contractors, must comply with various federal and state anti-kickback, self-referral, false claims and similar laws, any breach of which could cause an adverse effect on our business, results of operations and financial condition.

Our relationships with physicians, hospitals and other healthcare providers are subject to various federal and state healthcare fraud and abuse laws. Healthcare fraud and abuse laws are complex and, in some instances, even minor or inadvertent violations can give rise to liability. Possible sanctions for violation of the healthcare fraud and abuse laws include, without limitation, monetary fines, civil and criminal penalties, exclusion from participating in the federal and state healthcare programs, including, without limitation, Medicare, Medicaid, the VA health programs and TRICARE (the healthcare program administered by or on behalf of the U.S. Department of Defense for uniformed service members, including both those in active duty and retirees, as well as their dependents), and forfeiture of amounts collected in violation of such prohibitions. Many states have similar fraud and abuse laws, imposing substantial penalties for violations. A finding of a violation of one or more

of these laws, or even a government investigation or inquiry into the same, would likely result in a material adverse effect on the market price of our Common Stock, as well as on our business, results of operations, and financial condition.

The federal Anti-Kickback Statute is a criminal law that prohibits, among other things, any person from knowingly and willfully offering, paying, soliciting or receiving remuneration, directly or indirectly, in cash or in kind, to induce or reward referrals, purchases or orders or arranging for or recommending the purchase, order or referral of any item or service for which payment may be made in whole or in part by a federal healthcare program, such as the Medicare and Medicaid programs. The term "remuneration" has been broadly interpreted to include anything of value. The Patient Protection and Affordable Care Act (the "***PPACA***") amended the federal Anti-Kickback Statute to clarify the intent that is required to prove a violation. Under the federal Anti-Kickback Statute as amended, a person or entity need not have actual knowledge of this statute or specific intent to violate it. The PPACA also amended the federal Anti-Kickback Statute to provide that any claims for items or services resulting from a violation of the federal Anti-Kickback Statute are considered false or fraudulent for purposes of the federal *FCA*. A conviction for violation of the Anti-Kickback Statute results in criminal fines and requires mandatory exclusion from participation in federal health care programs. Although there are a number of statutory exceptions and regulatory safe harbors to the federal Anti-Kickback Statute that protect certain common industry practices from prosecution, the exceptions and safe harbors are drawn narrowly, and arrangements may be subject to scrutiny or penalty if they do not fully satisfy all elements of an available exception or safe harbor. We have entered into consulting agreements, speaker agreements, research agreements and product development agreements with physicians, including some who may order or recommend our products or make decisions to use them. In addition, some of these physicians own our stock, which they purchased in arm's-length transactions on terms identical to those offered to non-physicians, or received stock awards from us in the past as consideration for services performed by them. While we believe these transactions generally meet the requirements of applicable laws, including the federal Anti-Kickback Statute and analogous state laws, it is possible that our arrangements with physicians and other providers may be questioned by regulatory or enforcement authorities under such laws, which could lead us to redesign the arrangements and subject us to significant civil or criminal penalties. We have designed our policies and procedures to comply with the federal Anti-Kickback Statute, FCA, and industry best practices. In addition, we have conducted training sessions on these principles. If, however, regulatory or enforcement authorities were to view these arrangements as non-compliant with applicable laws, there would be risk of government investigations/inquiries or penalties. There is also risk that one or more of our employees or agents will disregard the rules we have established. Because our strategy relies on the involvement of physicians who consult with us on the design of our products, perform clinical research on our behalf or educate other health care professionals about the efficacy and uses of our products, we could be materially impacted if regulatory or enforcement agencies or courts interpret our financial relationships with physicians who refer or order our products to be in violation of applicable laws. This could harm our reputation and the reputations of the physicians we engage to provide services on our behalf. In addition, the cost of noncompliance with these laws could be substantial since we could be subject to monetary fines and civil or criminal penalties, and we could also be excluded from federally-funded healthcare programs, including Medicare, Medicaid, VA and TRICARE.

The FCA imposes civil liability on any person or entity that knowingly submits, or causes the submission of, a false or fraudulent claim to the U.S. government. Damages under the FCA can be significant and consist of the imposition of fines and penalties. The FCA also allows a private individual or entity to sue on behalf of the government to recover civil penalties and treble damages as a whistleblower. FCA liability is potentially significant in the healthcare industry because the statute provides for treble damages and mandatory penalties of between $11,181 and $22,363 per false claim or statement for penalties assessed after January 29, 2018, with respect to violations occurring after November 2, 2015.

Manufacturers can be held liable under the FCA even when they do not submit claims directly to government payers if they are deemed to "cause" the submission of false or fraudulent claims. The PPACA provides that claims tainted by a violation of the federal Anti-Kickback Statute are false for purposes of the FCA. The DOJ on behalf of the government has previously alleged that the marketing and promotional practices of pharmaceutical and medical device manufacturers, including the off-label promotion of products or the payment of prohibited kickbacks to doctors, violated the FCA, resulting in the submission of improper claims to federal and state healthcare programs such as Medicare and Medicaid. In certain cases, manufacturers have entered into criminal and civil settlements with the federal government under which they entered into plea agreements, paid substantial monetary amounts and entered into onerous corporate integrity agreements with the government that require, among other things, substantial reporting and remedial actions, as well as oversight and review by an outside entity, an Independent Review Organization ("***IRO***"), at substantial expense to the Company.

Under *HIPAA* criminal federal healthcare fraud statute, it is a crime to knowingly and willfully execute, or attempt to execute, a scheme or artifice to defraud any health care benefit program or to obtain, by means of false or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items or services.

There are federal and state laws requiring detailed reporting of manufacturer interactions with and payments to healthcare providers, such as the federal Physician Payments Sunshine Act ("***Sunshine Act***"). The Sunshine Act requires, among others, "applicable manufacturers" of drugs, devices, biological products, and medical supplies reimbursed under Medicare, Medicaid or the Children's Health Insurance Program to annually report to CMS information related to payments and other transfers of value provided to "covered recipients." The term covered recipients includes U.S.-licensed physicians and teaching hospitals, and, for reports submitted on or after January 1, 2022, physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, and certified nurse-midwives. While manufacturers of human cell and tissue products regulated solely under Section 361 are not subject to the Sunshine Act, in the future, if we receive a BLA, we will be subject to this law. There is the risk that CMS or another government agency may take the position that our products are not human cell and tissue products regulated solely under Section 361, and thereby assert that we are currently subject to the Sunshine Act, which could subject us to civil penalties and the administrative burden of having to comply with the law.

There are state law equivalents to the Anti-Kickback Statute and FCA. There are also so-called state "all-payer" anti-kickback laws which may apply to items or services reimbursed by any third-party payer, including commercial insurers, as well as when no insurer is involved (*i.e.* cash-pay patients).

The enforcement of all of these laws is uncertain and subject to rapid change. Federal or state regulatory or enforcement authorities may investigate or challenge our current or future activities under these laws. Any investigation or challenge could have a material adverse effect on our business, financial condition and results of operations. Any state or federal regulatory or enforcement review of us, regardless of the outcome, would be costly and time consuming. Additionally, we cannot predict the impact of any changes in these laws, whether these changes are retroactive or will have effect on a going-forward basis only.

Our results of operations may be adversely affected by current and potential future healthcare reforms.

In response to perceived increases in healthcare costs in recent years, there have been and continue to be proposals by the U.S. federal government, state governments, regulators and third-party payers to control these costs and, more generally, to reform the U.S. healthcare system. In the U.S., the PPACA was enacted in 2010 with a goal of reducing the cost of healthcare and substantially changing the way healthcare is financed by both government and private insurers.

In addition, other legislative changes have been proposed and adopted in the U.S. since the PPACA was enacted. The Budget Control Act of 2011 created measures for spending reductions by Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This included aggregate reductions of Medicare payments to providers of 2% per fiscal year, which went into effect on April 1, 2013. In January 2013, the American Taxpayer Relief Act was signed into law, which, among other things, further reduced Medicare payments to several provider types, including hospitals.

In addition to the ACA, the Medicare Access and CHIP Reauthorization Act of 2015 ("***MACRA***") repealed the Sustainable Growth Rate formula used to calculate Medicare payment updates for physicians providing services to Medicare beneficiaries. In its place, MACRA introduced the Quality Payment Program ("***QPP***"), which is a value-based program that focuses on quality and outcomes as a metric for physician reimbursement. The Centers for Medicare and Medicaid Services released its final rules for the QPP in October 2016. The QPP, which impacts more than 600,000 physicians and other practice-based clinicians, represents a fundamental change in physician reimbursement, transitioning from a system that solely rewards volume of care to one that also rewards quality and value of care. The rule may have an impact on our revenue in the future. The program's increased emphasis on quality and cost of care may encourage physicians to merge practices or seek direct employment with hospitals. In addition, the ACA encourages hospitals and physicians to work collaboratively through shared savings programs as well as other bundled payment initiatives. These shifts could lead to a consolidation of hospital providers into larger delivery networks with increased price negotiation strength resulting in downward pressure on our selling prices. Although we believe that we are well positioned to minimize any such impact on our business, our inability to address the consolidation trend could materially and adversely affect our business and results of operations.

There is uncertainty with respect to the impact the U.S. Administration, the executive order, and the attempted legislation may have, if any, and any changes will likely take time to unfold and could have an impact on coverage and reimbursement for healthcare items and services, including our products. We believe that substantial uncertainty remains regarding the net effect of the PPACA, or its repeal and potential replacement, on our business, including uncertainty over how benefit plans purchased on exchanges will cover our products, how the expansion or contraction of the Medicaid program will affect access to our products, the effect of risk-sharing payment models such as Accountable Care Organizations and other value-based purchasing programs on coverage for our product, and the effect of the general increase or decrease in federal oversight of healthcare payers. The taxes imposed and the expansion in government's role in the U.S. healthcare industry under the

PPACA, if unchanged, may result in decreased revenues, lower reimbursements by payers for our products and reduced medical procedure volumes, all of which could have a material adverse effect on our business, results of operations and financial condition.

We may fail to obtain or maintain foreign regulatory approvals to market our products in other countries.

We currently market our products in a small number of foreign countries, and intend to expand our international marketing, including in Japan. Foreign jurisdictions require separate regulatory approvals and compliance with numerous and varying regulatory requirements. The approval procedures vary among countries and may involve requirements for additional testing. Certain of our products require clearance or approval by the FDA. However, such clearance or approval does not ensure approval or certification by regulatory authorities in other countries or jurisdictions, and approval or certification by one foreign regulatory authority does not ensure approval or certification by regulatory authorities in other foreign countries or by the FDA. The foreign regulatory approval or certification process may include all of the risks associated with obtaining FDA clearance or approval. We may not obtain foreign regulatory approvals on a timely basis, if at all. We may not be able to file for regulatory approvals or certifications and may not receive necessary approvals to commercialize our products in any foreign jurisdiction. Furthermore, many foreign jurisdictions operate under socialized medical care, and obtaining reimbursement for our products under that construct may also prove difficult. If we fail to receive necessary approvals, certifications, or reimbursements necessary to commercialize our products in foreign jurisdictions such as Japan on a timely basis, or at all, our business, results of operations and financial condition could be adversely affected. Further, governmental authorities outside the U.S. have become increasingly stringent in their regulation of medical devices, and our products may become subject to more rigorous regulation by non-U.S. governmental authorities in the future. U.S. or non-U.S. government regulations may be imposed in the future that may have a material adverse effect on our business and operations.

Federal and state laws that protect the privacy and security of personal information may increase our costs and limit our ability to collect and use that information and subject us to liability if we are unable to fully comply with such laws.

Numerous federal and state laws, rules and regulations govern the collection, dissemination, use, security and confidentiality of personal information, including protected health information and individually identifiable health information. These laws include:

- provisions of HIPAA that limit how covered entities and business associates may use and disclose protected health information, provide certain rights to individuals with respect to that information and impose certain security requirements;
- HITECH, which strengthened and expanded the HIPAA Privacy Rule and Security Rules, imposed data breach notification obligations, created new tiers of civil monetary penalties, amended HIPAA to make civil and criminal penalties directly applicable to business associates and gave state attorneys general new authority to file civil actions for damages or injunctions in U.S. federal courts to enforce the federal HIPAA laws and seek attorneys' fees and costs associated with pursuing federal civil actions;
- other federal and state laws restricting the use and protecting the privacy and security of personal information, including health information, many of which are not preempted by HIPAA;
- federal and state consumer protection laws; and
- federal and state laws regulating the conduct of research with human subjects.

The California Consumer Protection Act ("***CCPA***"), which became effective on January 1, 2020, is a privacy law that requires certain companies doing business in California to disclose information regarding the collection and use of a consumer's personal data and to delete a consumer's data upon request. The Act also permits the imposition of civil penalties and expands existing state security laws by providing a private right of action for consumers in certain circumstances where consumer data is subject to a breach. We are still evaluating whether and how this rule will impact our U.S. operations and/or limit the ways in which we can provide services or use personal data collected while providing services.

As part of our business operations, including our medical record keeping, third-party billing and reimbursement and research and development activities, we collect and maintain protected health information in paper and electronic format. Standards related to collecting and maintaining health information, whether implemented pursuant to HIPAA, HITECH, state laws, federal or state action or otherwise, could have a significant effect on the manner in which we handle personal information, including healthcare-related data, and communicate with payers, providers, patients, donors and others, and compliance with these standards could impose significant costs on us or limit our ability to offer services, thereby negatively impacting the business opportunities available to us.

If we are alleged to have not complied with existing or new laws, rules and regulations related to personal information, we could be subject to litigation and to sanctions that include monetary fines, civil or administrative penalties, civil damage awards or criminal penalties.

Risks Related to Our Intellectual Property

Our ability to protect our intellectual property and proprietary technology through patents and other means is uncertain and may be inadequate, which could have an adverse effect on our business, results of operations and financial condition.

Our success depends significantly on our ability to protect our proprietary rights to the technologies used in our products. We rely on patent protection, as well as a combination of copyright, trade secret and trademark laws and nondisclosure, confidentiality and other contractual restrictions to protect our proprietary technology, including our licensed technology. These legal means afford only limited protection and may not adequately protect our rights or permit us to gain or keep any competitive advantage. In addition, our pending patent applications include claims to material aspects of our products and procedures that are not currently protected by issued patents. The patent application process can be time consuming and expensive. Our pending patent applications might not result in issued patents. Competitors may be able to design around our patents or develop products that provide outcomes that are comparable or even superior to ours. Although we have taken steps to protect our intellectual property and proprietary technology, including entering into confidentiality agreements and intellectual property assignment agreements with some of our officers, employees, consultants and advisors, such agreements may not be enforceable or may not provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure or other breaches of the agreements.

The failure to obtain and maintain patents or protect our intellectual property rights could have an adverse effect on our business, results of operations, and financial condition. Whether a patent claim is valid is a complex matter of science, facts and law, and therefore we cannot be certain that, if challenged, our patent claims would be upheld. If any of those patent claims are invalidated, our competitive advantage may be reduced or eliminated.

In the event a competitor infringes upon our licensed patents, issued patents, pending patent applications or other intellectual property rights, enforcing those rights may be costly, uncertain, difficult and time consuming. Even if successful, litigation to enforce or defend our intellectual property rights could be expensive and time consuming and could divert our management's attention. Further, bringing litigation to enforce our patents subjects us to the potential for counterclaims. Other companies or entities also have commenced, and may again commence, actions seeking to establish the invalidity of our patents and certain related claims. In the event that any of our patent claims are challenged, a court, the United States Patent and Trademark Office ("***USPTO***"), or the Patent Trial and Appeal Board ("***PTAB***") of the USPTO may invalidate one or more challenged patent claims or determine that the patent is unenforceable, which could harm our competitive position. If the USPTO or the PTAB ultimately cancels or narrows the claim scope of any of our patents through these proceedings, it could prevent or hinder us from being able to enforce them against competitors. Such adverse decisions could negatively impact our business, results of operations, and financial condition.

In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in enforcing and defending intellectual property rights in certain foreign jurisdictions. This could make it difficult for us to stop infringement of our foreign patents, if obtained, or the misappropriation of our other intellectual property rights. For example, some foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. In addition, some countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit. Patent protection must ultimately be sought on a country-by-country basis, which is an expensive and time-consuming process with uncertain outcomes. Accordingly, we may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in such countries. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business. Accordingly, our efforts to protect our intellectual property rights in some countries may be inadequate.

We may become subject to claims of infringement of the intellectual property rights of others, which could prohibit us from developing our products, require us to obtain licenses from third parties or to develop non-infringing alternatives, and subject us to substantial monetary damages.

Third parties could assert that our products infringe their patents or other intellectual property rights. Whether a product infringes a patent claim or other intellectual property right involves a complex combination of legal and factual issues, the determination of which is often uncertain. Therefore, we cannot be certain that we have not infringed the intellectual property rights of others. Because patent applications may take years to issue, there also may be applications now pending of which we

are unaware that may later result in issued patent claims that our products or processes infringe. There also may be existing patents or pending patent applications of which we are unaware that our products or processes may inadvertently infringe.

Any infringement claim could cause us to incur significant costs, place significant strain on our financial resources, divert management's attention from our business and harm our reputation. If the relevant patent claims at issue in such a dispute were upheld as valid and enforceable and we were found to infringe, we could be prohibited from selling any product that is found to infringe those claims unless we could obtain licenses to use the technology covered by the asserted patent claims or other intellectual property, or are able to design around the patent claim or claims at issue or other intellectual property. We may be unable to obtain such a license on terms acceptable to us, if at all, and we may not be able to redesign our products to avoid infringement. A court could also order us to pay compensatory damages for such infringement, plus prejudgment interest and could, in addition, treble the compensatory damages and award attorney fees. These damages could be substantial and could harm our reputation, business, financial condition and operating results. A court also could enter orders that temporarily, preliminarily or permanently enjoin us and our customers from making, using, or selling products, and could enter an order mandating that we undertake certain remedial measures. Depending on the nature of the relief ordered by the court, we could become liable for additional damages to third parties. Further, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our trade secrets or other confidential information could be compromised by inadvertent or court-ordered disclosure during this type of litigation.

We may be subject to damages resulting from claims that we, our employees, or our independent contractors have wrongfully used or disclosed alleged trade secrets, proprietary or confidential information of our competitors or are in breach of non-competition or non-solicitation agreements with our competitors.

Some of our employees were previously employed at other medical device, pharmaceutical or tissue companies. We may also hire additional employees who are currently employed at other medical device, pharmaceutical or tissue companies, including our competitors. Additionally, consultants or other independent agents with which we may contract may be or have been in a contractual arrangement with one or more of our competitors. Although no claims are currently pending, we may be subject to claims that we, our employees, or our independent contractors have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of these former employers or competitors. In addition, we have been and may in the future be subject to claims that we caused an employee to breach the terms of his or her non-competition or non-solicitation agreement. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management. If we fail to defend such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Any future litigation or the threat thereof may adversely affect our ability to hire additional direct sales representatives. A loss of key personnel or their work product could hamper or prevent our ability to market existing or new products, which could severely harm our business, financial condition and operating results.

Risks Related to Our Past Audit Committee Investigation, Consolidated Financial Statements, Internal Controls and Related Matters

If we fail to maintain adequate internal control over financial reporting in the future, this could adversely affect our business, financial condition and operating results.

We have in the past reported material weaknesses in our internal control over financial reporting which we have now remediated. If additional material weaknesses or deficiencies in our internal control over financial reporting are discovered or occur in the future, our consolidated financial statements might contain material misstatements and we could be required to restate our financial results. Moreover, because of the inherent limitations of any control system, material misstatements due to error or fraud may not be prevented or detected on a timely basis, or at all. If we are unable to provide reliable and timely financial reports in the future, our business and reputation may be further harmed. Failures in internal controls may also cause us to fail to meet reporting obligations, negatively affect investor confidence in our management and the accuracy of our financial statements and disclosures, or result in adverse publicity and concerns from investors, any of which could have a negative effect on the price of our Common Stock, subject us to regulatory investigations and penalties or shareholder litigation, and adversely impact our business, results of operations and financial condition.

Negative publicity, including publicity relating to or arising from the Restatement, the Audit Committee Investigation, or related matters, has had and could continue to have an adverse effect on our business, results of operations and financial condition.

We have been and could continue to be the subject of negative publicity focusing on the Restatement, the results of the Audit Committee Investigation, and related matters. As a result, our customers and others with whom we do business have voiced

concerns regarding our accounting and control environment and our ability to be a long-term provider to our customers. Further negative publicity could adversely affect our business, financial condition and results of operations.

We have incurred significant legal and accounting expenditures as a result of the Restatement and have become subject to a number of additional risks and uncertainties, including being a party to certain litigation relating to the Restatement. See Item 3. "*Legal Proceedings*" and Item 8. Financial Statements and Supplementary Data, Note 14, "*Commitments and Contingencies*" for additional information. As a result of the Restatement, we may continue to be at risk for further government investigations, shareholder litigation, and additional accounting and legal fees in connection therewith, as well as loss of investor confidence in us, and a negative impact on our stock price.

We are currently, in the past have been, and in the future may be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses, divert management's attention, and result in harm to our business.

We are exposed to potential liabilities and reputational risk associated with litigation, regulatory proceedings and government enforcement actions. We were party to a securities class action lawsuit subject to appeal alleging, among other things, violations of Section 10(b) of the Securities Exchange Act of 1934. See Item 3, "*Legal Proceedings*" and Item 8, Financial Statement and Supplementary Data, Note 14, "*Commitments and Contingencies*" for information regarding proceedings that we believe may be significant to the Company as of the date of the filing of this Annual Report. We may be subject to additional lawsuits, including class action or securities derivative lawsuits, and further government investigations as well as incur additional legal fees and may face negative impacts to our stock price and reputation. In addition, we are obligated to indemnify and advance expenses to certain individuals involved in certain of these proceedings.

Any adverse judgment in or settlement of any pending or any future litigation could result in significant payments, fines and penalties that could have a material adverse effect on our business, results of operations, financial condition and reputation. Such payments, damages or settlement costs, if any, related to these matters could be in excess of our insurance coverage. The amount of time that is required to resolve these lawsuits is unpredictable and any litigation or claims against us, even those without merit, may cause us to incur substantial costs, divert management's attention from the day-to-day operation of our business, and materially harm our reputation.

Risks Related to the Securities Markets and Ownership of Our Common Stock

Our substantial indebtedness may adversely affect our financial health.

As of December 31, 2021, the Company had an aggregate of $50 million of borrowings outstanding under the Hayfin Loan Agreement. See Item 8, Financial Statements and Supplementary Data, Note 9, "*Long-Term Debt.*"

Our substantial outstanding debt may limit our ability to borrow additional funds or may adversely affect the terms on which such additional funds may be available. Additionally, a default under certain other indebtedness constitutes an event of default under the Hayfin Loan Agreement. Consequently, the effects of a default under other debt may be amplified by the lender exercising the remedies available to it in the Hayfin Loan Agreement for events of default, including foreclosure on the collateral securing our obligations and the declaration that all amounts outstanding under the Hayfin Loan Agreement are immediately due and payable. The limitations on our ability to access additional borrowing and the potential effects of a cross-default under the Hayfin Loan Agreement may limit our liquidity and have an adverse effect on our business, financial condition, and results of operations.

The restrictive covenants in the Hayfin Loan Agreement, and the Company's obligation to make debt payments under the Hayfin Loan Agreement, limit our operating and financial flexibility and may adversely affect our business, results of operations and financial condition.

The Hayfin Loan Agreement, as amended, imposes operating and financial restrictions and covenants. For example, the Hayfin Loan Agreement, as amended, contains (a) covenants that impose certain reporting and/or performance obligations on the Company and its subsidiaries, including (i) a Minimum Consolidated Total Net Sales (as defined in the Hayfin Loan Agreement) of varying amounts from now until maturity at June 30, 2025, in each case tested quarterly; and (ii) Minimum Liquidity (as defined in the Hayfin Loan Agreement) of $20 million, an at-all-times covenant tested monthly and (b) certain negative covenants that generally limit, subject to various exceptions, the Company and its subsidiaries from taking certain actions, including, without limitation, incurring indebtedness, making investments, incurring liens, paying dividends and engaging in mergers and consolidations, sale and leaseback transactions and asset dispositions.

Our ability to comply with the financial covenants in the Hayfin Loan Agreement is in part dependent on our success in our overall strategies, including pursuing expansion beyond advanced wound care into areas of surgical recovery, introducing new products and seeking international growth. A breach of a financial covenant in the Hayfin Loan Agreement could result in an event of default that would trigger the lenders' remedies, including the right to accelerate the entire principal balance of the loan under the Hayfin Loan Agreement. We currently have sufficient cash on hand to repay all amounts outstanding, however, there can be no assurances that we will be able to find alternative financing in case of such or other event of a default. Even if alternative financing were available should an event of a default occur under the Hayfin Loan Agreement, it might be on unfavorable terms, and the interest rate charged on any new borrowings could be substantially higher than the interest rate under the Hayfin Loan Agreement, thus adversely affecting our cash flows, liquidity, and results of operations. Acceleration of the repayment of the loan pursuant to the terms of the Hayfin Loan Agreement, in combination with the Company's current commitments and contingent liabilities, could also cast doubt on the Company's ability to continue as a going concern.

Our variable rate indebtedness under the Hayfin Loan Agreement subjects us to interest rate risk, which could result in higher expense in the event of increases in interest rates and adversely affect our business, financial condition, and results of operations.

Borrowings under the Hayfin Loan Agreement, as amended, bear interest at a per annum rate equal to London Interbank Offered Rate ("***LIBOR***"), subject to a "floor" of 1.5%, plus a margin of 6.75%. As a result, we are exposed to interest rate risk, which we do not hedge. If LIBOR rises, the interest rate on outstanding borrowings under the Hayfin Loan Agreement will increase. Therefore, an increase in LIBOR will increase our interest payment obligations under the Hayfin Loan Agreement and have a negative effect on our cash flows and liquidity, and could have a negative effect on our ability to make payments due under the Hayfin Loan Agreement.

EW Healthcare Partners and its interests may conflict with those of our other shareholders.

As of December 31, 2021, EW Healthcare Partners and their affiliates own 90% of the outstanding shares of our Series B Preferred Stock which upon conversion into shares of Common Stock, would result in an ownership interest of approximately 18.3% of our Common Stock (calculated on the basis described in Item 12, " - - *Security Ownership Of Certain Beneficial Owners And Management"* below). Also, for as long as EW Healthcare Partners and its affiliates collectively hold at least (i) 10% of the outstanding shares of our Common Stock (calculated on an as converted basis), EW Healthcare Partners has the right to designate two directors to our Board and (ii) 5% (but less than 10%) of the outstanding shares of our outstanding Common Stock (calculated on an as converted basis), EW Healthcare Partners has the right to designate one individual to serve on our Board. Such individuals will initially be preferred directors and therefore not subject to election by the holders of Common Stock. EW Healthcare Partners designated Martin P. Sutter and William A. Hawkins, III, who continue to serve on our board as preferred directors. The interests of EW Healthcare Partners may conflict with those of our other shareholders, and EW Healthcare Partners may seek to influence, and may be able to influence, us through its director designation rights and its share ownership.

Holders of shares of our Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.

Holders of shares of our Series B Preferred Stock were entitled to cumulative dividends at a rate of 4.0% per annum until June 30, 2021 and are entitled to 6.0% per annum thereafter, in each case compounding quarterly in arrears. The dividends are payable quarterly in whole or in part, in cash. However, the Company may, at its option, elect not to pay any such dividend in cash and instead to accrue the amount of such dividend. The payment of regular dividends in cash to the holders of Series B Preferred Stock could impact our liquidity and reduce the amount of cash available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes. If we elect to accrue the dividends in lieu of paying them in cash, holders of Common Stock could effectively be diluted because such accrual of dividends will increase the number of shares of Common Stock into which the Series B Preferred Stock would then be convertible. Our obligations to the holders of Series B Preferred Stock could also limit our ability to obtain additional equity or debt financing or increase our borrowing costs, which could have an adverse effect on our financial condition.

The Series B Preferred Stock ranks senior to our Common Stock with respect to dividends and distributions on liquidation, winding-up, and dissolution. Upon a liquidation, dissolution, or winding-up of the Company, holders of Series B Preferred Stock will be entitled to receive $1,000 per share of Series B Preferred Stock (subject to adjustment), plus any accrued and unpaid dividends. This amount will be payable prior to any distribution of our available assets to the holders of our Common Stock.

Holders of Series B Preferred Stock generally are entitled to vote together as a single class with the holders of the shares of Common Stock, on an as converted basis, on all matters submitted for a vote of holders of our Common Stock subject to certain limitations on their voting rights contained in the related Articles of Amendment to our Restated Articles of Incorporation. Additionally, certain matters will require the approval of the holders of a majority of the outstanding shares of Series B Preferred Stock, voting as a separate class, including the following actions:

- any changes to the rights, preferences, or privileges of the Series B Preferred Stock;
- amendments or restatements of any organizational document of the Company or its subsidiaries in a manner that materially, adversely, and disproportionately affects the rights, preferences, and privileges of the Series B Preferred Stock as compared to our Common Stock;
- the authorization or creation of any class or series of senior or parity equity securities;
- the declaration of any dividends or any other distributions, or the repurchase or redemption, of any equity securities of the Company ranking junior to or on parity with the Series B Preferred Stock (subject to certain exceptions);
- prior to January 2, 2023, the sale, transfer, or other disposition of any assets, business, or operations for $25 million or more (other than sales of inventory in the ordinary course of business), or the purchase or acquisition of any assets, business, or operations for $75 million or more;
- prior to January 2, 2023, the merger or consolidation of the Company unless either (x) the surviving company will have no class of equity securities ranking superior to or on parity with the Series B Preferred Stock or (y) the holders of shares of the Series B Preferred Stock will receive in connection therewith consideration per share of Series B Preferred Stock valued at 200% or more of the purchase price per share of $1,000;
- prior to January 2, 2023, commencing a voluntary case under any applicable bankruptcy, insolvency, or other similar law or consenting to the entry of an order for relief in an involuntary case under any such law, or effectuating any general assignment for the benefit of creditors; and
- prior to January 2, 2023, entering into any settlement agreement regarding the Company's securities class action litigation.

The interests of our holders of Series B Preferred Stock and our Common Stock may conflict in certain circumstances, and these provisions may constrain the Company from taking certain actions that may be in the best interest of the holders of its Common Stock.

The conversion price of the Series B Preferred Stock is subject to anti-dilution adjustments in the event that the Company sells or issues Common Stock to any third-party investor at any time prior to July 2, 2022 at a price that is less than $3.85 per share of Common Stock (although such adjustments cannot result in a conversion price for the Series B Preferred Stock of less than $3.47). Additionally, as long as EW Healthcare Partners holds at least 10% of our outstanding Common Stock (calculated on an as converted basis), it has certain preemptive rights to participate in offerings of Common Stock to any person, subject to customary exceptions.

Furthermore, in the event that the Company undergoes a change of control (as defined), the holders of Series B Preferred Stock will have certain redemption rights, which, if exercised, could require us to repurchase all of the outstanding shares of Series B Preferred Stock for cash at the original purchase price of Series B Preferred Stock plus all accrued and unpaid dividends thereon. Any required repurchase of the outstanding Series B Preferred Stock could impact our liquidity and reduce the amount of cash available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes.

The preferential rights of the Series B Preferred Stock could also result in divergent interests between the holders of Series B Preferred Stock and our common shareholders.

See Item 8, Financial Statement and Supplementary Data, Note 11, "*Equity*" for more information regarding our Series B Preferred Stock.

Our Series B Preferred Stock is convertible into shares of our Common Stock, and any such conversion may dilute the value of our Common Stock.

Holders of shares of Series B Preferred Stock have the right, at their option, to convert each share of Series B Preferred Stock into shares of our Common Stock, except that no holder may convert its shares of Series B Preferred Stock into shares of Common Stock if such conversion would result in such holder and its affiliates holding more than 19.9% of the aggregate voting power of our Common Stock or beneficially owning in excess of 19.9% of our then-outstanding shares of Common Stock. Additionally, each share of Series B Preferred Stock (including any accrued and unpaid dividends) will automatically convert into shares of our Common Stock at any time after July 2, 2023, provided that our Common Stock has traded at 200% or more of the then conversion price (i) for 20 out of 30 consecutive trading days preceding, and (ii) as of the close of trading on the date immediately prior to conversion. The conversion of Series B Preferred Stock may significantly dilute our common shareholders and adversely affect both our net income per share of Common Stock and the market price of our Common Stock.

The price of our Common Stock has been, and will likely continue to be, volatile.

The market price of our Common Stock, like that of the securities of many other healthcare companies that are engaged in research, development, and commercialization, has fluctuated over a wide range, and it is likely that the price of our Common Stock will fluctuate in the future. The market price of our Common Stock could be impacted by a variety of factors, including:

- Fluctuations in stock market prices and trading volumes of similar companies or of the markets generally;
- Our ability to successfully launch, market and earn significant revenue from our products;
- Our ability to obtain additional financing to support our continuing operations;
- Disclosure of the details and results of our clinical trials and our regulatory applications and proceedings;
- Developments in and disclosure or publicity regarding existing or new litigation or contingent liabilities;
- Changes in government regulations or our failure to comply with any such regulations;
- Additions or departures of key personnel;
- Our investments in research and development or other corporate resources;
- Announcements of technological innovations or new commercial products by us or our competitors;
- Developments in the patents or other proprietary rights owned or licensed by us or our competitors;
- The timing of new product introductions;
- Actual or anticipated fluctuations in our operating results, including any restatements of previously reported results;
- Our ability to effectively and consistently manufacture our products and avoid costs associated with the recall of defective or potentially defective products;
- Our ability and the ability of our distribution partners to market and sell our products;
- Changes in reimbursement for our products or the price for our products to our customers;
- Removal of our products from the FSS, or changes in how government accounts purchase products such as ours or in the price for our products to government accounts;
- Activities of market participants and investors, including analysts and MiMedx shareholders;
- Material amounts of short-selling of our Common Stock; and
- The other risks detailed in this Item 1A.

Price volatility or a decrease in the market price of our Common Stock could have an adverse effect on our ability to raise capital, liquidity, business, financial condition and results of operations.

Securities analysts may elect not to report on our common stock or may issue negative reports that adversely affect the stock price.

We have conducted extensive investor relations outreach to the investment analysts community with the goal of attracting analyst coverage. However, at this time, only three securities analysts provide coverage on us, and we compensate one of those analyst’s firms. There can be no assurance that any other analysts will cover our stock or, if they do, that they will continue to report on our common stock or that additional analysts will initiate reporting on our common stock.

If we fail to attract the coverage or securities analysts, or if securities analysts discontinue covering our common stock, the lack of research coverage may adversely affect the actual and potential market price of our common stock. The trading market for our common stock may be affected in part by the research and reports that industry participants, industry analysts or financial analysts publish about our business. If one or more analysts elect to cover us and then downgrade the stock, the stock price would likely decline rapidly. If one or more of these analysts cease coverage of us, we could lose visibility in the market, which in turn could cause our stock price to decline.

Fluctuations in revenue or results of operations could cause additional volatility in our stock price.

Any unanticipated shortfall in our revenue in any fiscal quarter could have an adverse effect on our results of operations in that quarter. The effect on our net income of such a shortfall could be exacerbated by the relatively fixed nature of most of our costs, which primarily include personnel costs as well as facilities costs. These fluctuations could cause the trading price of our stock to be negatively affected. Our quarterly operating results have varied substantially in the past and may vary substantially in the future.

We do not intend to pay cash dividends on our Common Stock.

Holders of our Series B Preferred Stock are entitled to contractually-determined dividends before holders of our Common Stock. See above "*Holders of shares of Series B Preferred Stock have rights, preferences and privileges that are not held by, and are preferential to, the rights of, our common shareholders.*"

We have never declared or paid cash dividends on our Common Stock. We currently expect to use available funds and any future earnings to pay dividends on the Series B Preferred Stock; in the development, operation and expansion of our business; to repay debt; and, to the extent authorized by our Board, repurchasing our Common Stock. We do not anticipate paying any cash dividends on our Common Stock in the foreseeable future. As a result, capital appreciation, if any, of our Common Stock will be an investor's only source of potential gain from our Common Stock for the foreseeable future.

Certain provisions of Florida law and anti-takeover provisions in our organizational documents may discourage or prevent a change of control, even if an acquisition would be beneficial to shareholders, which could affect our share price adversely and prevent attempts by shareholders to remove current management.

The Florida Business Corporation Act (the "***FBCA***") includes several provisions applicable to the Company that may discourage potential acquirors. Such provisions include provisions that:

- allow directors to take other stakeholders into account in discharging their duties;
- a requirement that certain transactions with a shareholder of 10% or more ownership must be approved by the affirmative vote of two-thirds of the other shareholders unless approved by a majority of the disinterested directors or certain fair price requirements are met; and
- voting rights acquired by a shareholder at ownership levels at or above one-fifth, one-third and a majority of voting power are denied unless authorized by the Board prior to such acquisition or by a majority of the other shareholders (excluding interested shares (as defined in the FBCA)).

Additionally, our organizational documents contain provisions:

- authorizing the issuance of blank check preferred stock;
- restricting persons who may call shareholder meetings;
- permitting shareholders to remove directors only "for cause" and only by super-majority vote; and
- providing the Board with the exclusive right to fill vacancies and to fix the number of directors.

These provisions of Florida law and our articles of incorporation and bylaws could negatively affect our share price, prevent attempts by shareholders to remove current management, prohibit or delay mergers or other takeovers or changes of control of the Company and discourage attempts by other companies to acquire us, even if such a transaction would be beneficial to our shareholders.

Item 1B. Unresolved Staff Comments

There are no unresolved SEC Staff comments with respect to our SEC filings.

Item 2. Properties

Our corporate headquarters are located in Marietta, Georgia, where we lease office, laboratory, tissue processing and warehouse space. We also lease a facility in Kennesaw, Georgia, which primarily consists of laboratory, tissue processing and warehouse space, and additional warehouse space in Marietta, Georgia. All of our properties are used by our one business segment, which includes the design, manufacture and marketing of products and tissue processing services primarily for the wound care, burn, surgical recovery, and non-operative sports medicine sectors of healthcare.

The Company's properties are suitable and adequate for current business operations. We are making investments to increase our manufacturing capacity, especially in the context of enhancements to facilitate the processing of products required to be manufactured under CGMP.

Item 3. Legal Proceedings

The description of our securities class action contained in Note 14, *"Commitments and Contingencies,"* to our financial statements included in Item 8 is incorporated herein by reference.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market for Common Stock

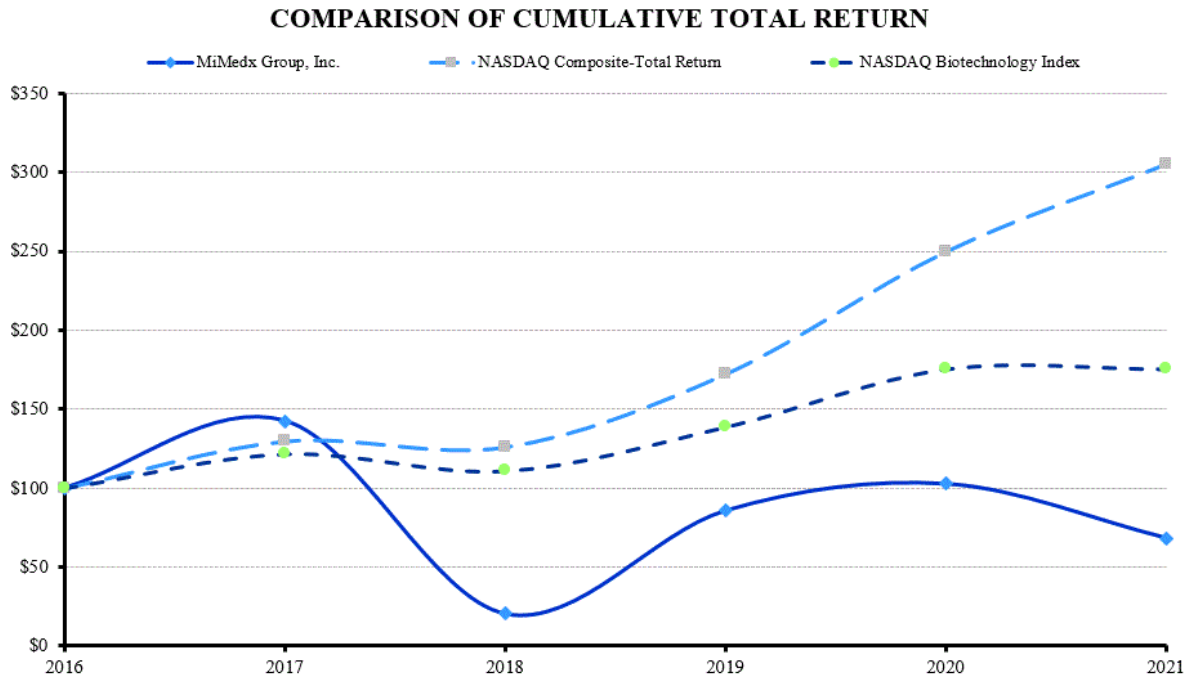
Our Common Stock trades on The Nasdaq Stock Market under the trading symbol "MDXG".

Holders

Based upon information supplied from our transfer agent, there were approximately 869 shareholders of record of our Common Stock as of February 21, 2022.

Stock Performance Graph

The following graph compares the cumulative total stockholder return on our Common Stock with the cumulative total stockholder return of the Nasdaq Composite Index and the Nasdaq Biotechnology Index, assuming an investment of $100.00 on December 31, 2016, in each of our Common Stock, the stocks comprising the Nasdaq Composite Index, and the stocks comprising the Nasdaq Biotechnology Index.



ASSUMES $100 INVESTED ON DEC. 31, 2016
ASSUMES DIVIDEND REINVESTMENT; NO DIVIDENDS ISSUED BY MIMEDX
FISCAL YEAR ENDED DEC. 31, 2021

Securities Authorized for Issuance Under Equity Compensation Plans

Information about securities authorized for issuance under our equity compensation plans is incorporated herein by reference to Item 12 of Part III of this Annual Report.

Recent Sales of Unregistered Securities

None.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The following table sets forth information regarding the purchases of the Company's equity securities made by or on behalf of the Company or any affiliated purchaser (as defined in Rule 10b-18 under the Exchange Act) during the three-month period ended December 31, 2021.

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under Plans or Programs
October 1, 2021 - October 31, 2021	—	$ —	—	$ —
November 1, 2021 - November 30, 2021	—	$ —	—	$ —
December 1, 2021 - December 31, 2021	—	$ —	—	$ —
Total for the quarter	—	$ —	—	$ —

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

MIMEDX is a transformational placental biologics company, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, we are focused on addressing unmet clinical needs in areas of advanced wound care, surgical recovery applications and musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary methods, including the PURION® process. We apply CGTP, CGMP, and terminal sterilization to produce our allografts. MIMEDX provides products primarily in the wound care, burn, and surgical recovery sectors of healthcare. All of our products are regulated by the FDA.

MIMEDX is a leading supplier of human placental allografts, which are human tissues that are derived from one person (the donor) and used to produce products that treat another person (the recipient). MIMEDX has supplied over two million allografts, through both direct and consignment shipments. Our platform technologies include tissue allografts derived from the amnion and chorion layers of the human placental membrane (EPIFIX and AMNIOFIX) and tissue allografts derived from human umbilical cord (EPICORD and AMNIOCORD).

EPIFIX and EPICORD products are marketed for external use, such as in advanced wound care applications, while our AMNIOFIX and AMNIOCORD products are positioned for use in surgical recovery applications, including lower extremity repair, plastic surgery, vascular surgery and multiple orthopedic repairs and reconstructions.

AMNIOFIX Injectable, or mdHACM is a micronized configuration of AMNIOFIX and is not currently marketed in the United States. mdHACM is our lead product candidate for our late-stage pipeline targeted at achieving FDA approval for specific clinical indications, including degenerative musculoskeletal conditions.

We have two classes of products: (1) Advanced Wound Care products, or Section 361 products, consisting of our tissue and cord sheet allograft products, and (2) Section 351 products, consisting of our micronized and particulate products, which, prior to May 31, 2021, the date of the FDA's period of enforcement discretion ended, were used to treat a variety of clinical conditions, including both advanced wound care and musculoskeletal applications. Our Advanced Wound Care business includes two product categories, Tissue/Other and Cord products. We sell product through two distribution channels: (1) direct to customers (healthcare professionals and/or facilities); and (2) sales through distributors.

In November 2017, the FDA published a series of guidances that established an updated framework for the regulation of cellular and tissue-based products. These guidances clarified the FDA's views about the criteria that differentiate those products subject to regulation under Section 361 of the Public Health Service Act from those considered to be drugs, devices, and/or biological products subject to licensure under Section 351 of the Public Health Service Act and related regulations. The FDA exercised enforcement discretion under limited conditions with respect to IND applications and pre-market approval requirements through May 31, 2021. The enforcement discretion period ended on May 31, 2021. We are not currently marketing our micronized and particulate products affected by the guidance in the United States.

This discussion, which presents our results for the fiscal years ended December 31, 2021 and December 31, 2020, should be read in conjunction with our Consolidated Financial Statements and the accompanying notes. Also please refer to Item 1 — Business and Item 1A — Risk Factors, which include detailed discussions of various items impacting our business, results of operations and financial condition. We intend for this discussion to provide the reader with information that will assist in understanding our financial statements, the changes in certain key items in those financial statements from period to period and the primary factors that accounted for those changes. We also discuss certain performance metrics that management uses to assess the Company's performance. Further information on the factors that can affect our operating results can be found in Part I under the caption *"Explanatory Note and Important Cautionary Statement Regarding Forward-Looking Statements."*

Our Annual Report for the year ended December 31, 2020 includes a discussion and analysis of our financial condition and results of operations for the year ended December 31, 2019 in Part II, Item 7, "*Management's Discussion and Analysis of Financial Condition and Results of Operations*."

Trends in Our Business

Analysis of our Phase 2B Knee Osteoarthritis clinical trial has identified a probable root cause of the failure for this study to meet its primary endpoints. We intend to use these findings to inform planned future clinical trials

In September 2021, we reported top-line data from the results of two late-stage musculoskeletal clinical trials of the Company's mdHACM product, including a Phase 2B clinical trial for the treatment of Knee Osteoarthritis. Results from a topline analysis of the six-month efficacy data for the Phase 2B clinical trial for Knee Osteoarthritis revealed that the study did not meet its primary endpoints, but did reveal varied efficacy signals between patient cohorts evaluated pre- and post-blinded interim analysis performed in mid-2019.

A root-cause analysis of the Knee Osteoarthritis study indicated that the varied efficacy signals between the pre-interim analysis and post-interim analysis cohorts was the result of faded potency of the investigational product over time. We intend to incorporate these findings into the design of our Phase 3 program, which we plan to initiate in 2022.

We are expanding beyond advanced wound care and into areas of surgical recovery

Surgical recovery applications focus on the use of tissue products to augment tissue, serve as a barrier membrane, or aid in incisional closure with the goal of preventing or reducing procedural complications. Following a thorough review of surgical procedures and potential clinical applications across several specialties, we have identified those areas where we believe our tissue products could be incorporated. We are targeting certain procedures for use of our products based on unmet clinical need, potential procedural complication rate, clinical relevance, economic factors and overall business priorities. As in advanced wound care, we believe this market is expanding as a result of demographic trends, including an aging population, increasing incidence of obesity and diabetes and the associated higher susceptibility to non-healing chronic wounds.

We are actively pursuing growth strategies by expanding our geographic reach

We are actively pursuing international expansion, with an initial focus in Japan. We received regulatory approval by the Japanese Ministry of Health, Labor and Welfare in June 2021 to market EPIFIX in Japan. We expect to secure reimbursement approval in mid-2022, and are putting in place the necessary structure, medical education programs, and market development initiatives that will operationalize our commercial strategy. We are evaluating opportunities for geographic expansion in the United Kingdom, certain other areas of Europe and also the Middle East.

Impact of COVID-19 Pandemic

While the impact of the COVID-19 pandemic is still ongoing, the effects on our operations, such as access restrictions to hospitals and difficulties obtaining donor materials that we observed during the year ended December 31, 2020 did not materially affect our operations during the year ended December 31, 2021. We are continuously monitoring developments with respect to novel variants of the virus and government and societal responses to mitigate the continued spread of COVID-19, which could impact our operations.

We continue to exercise an abundance of caution with respect to the health and well being of our employees. We are providing employees with Personal Protective Equipment as needed, and advising all employees to receive a COVID-19 vaccine or booster as soon as reasonably possible. None of these efforts have materially affected the Company's operations for the year ended December 31, 2021.

Components of and Key Factors Influencing Our Results of Operations

In assessing the performance of our business, we consider a variety of performance and financial measures. We believe the items discussed below provide insight into the factors that affect these key measures.

Net sales

Net sales is recognized based on the consideration we expect to receive from the sale. This consists of the gross selling price of the product, less any discounts, rebates, fees paid to GPOs, and returns.

We derive the majority of our revenue from selling our tissue and cord products in the United States. We are actively working to broaden our product portfolio in a number of clinical applications, while also seeking regulatory approval with the appropriate regulators to expand our geographic footprint.

We have two classes of products: (1) Advanced Wound Care products, or Section 361 products, consisting of our tissue and cord sheet allograft products, and (2) Section 351 products, consisting of our micronized and particulate products, which, prior to May 31, 2021, the date the FDA's period of enforcement discretion ended, were used to treat a variety of patient needs, including both advanced wound care and musculoskeletal applications. Our Advanced Wound Care business includes two product categories, Tissue/Other and Cord products.

We have two distribution channels: (1) direct to customers and (2) sales through distributors.

Several factors affect our reported revenue in any period, including product, payer and geographic sales mix, operational effectiveness, pricing realization, marketing and promotional efforts, timing of orders and shipments, regulatory actions including healthcare reimbursement scenarios, competition, and business acquisitions that involve our customers or competitors.

Cost of goods sold and gross profit

Cost of goods sold includes product testing costs, quality assurance costs, personnel costs, manufacturing costs, raw materials and product costs, depreciation and facility costs associated with our manufacturing and warehouse facilities. Fluctuations in our cost of goods sold correspond with the fluctuations in these costs as well as in sales units driven by the changes in our sales force and sales territories, product portfolio offerings and the number of facilities that offer our products.

Gross profit is calculated as net sales less cost of goods sold. Our gross profit is affected by product and geographic sales mix, realized pricing of our products, the efficiency of our manufacturing operations and the costs of materials used to make our products. Regulatory actions, including with respect to reimbursement for our products, may require costly expenditures or result in pricing pressure, and may decrease our gross profit and gross margin.

Selling, general and administrative expense

Selling, general and administrative expense includes personnel costs, commissions, incentive compensation, customer support, administrative and labor costs, insurance, professional fees, depreciation and bad debt expense. We expect our selling, general and administrative expense to fluctuate based on revenue fluctuations, geographic changes, and any changes to the size of our headcount, particularly that of our sales and marketing forces.

Research and development expense

Research and development expense relates to our investments in clinical trials to expand our product pipeline and platforms, as well as investments in improvements to our manufacturing process and the enhancement of existing products. Our research and development costs also include expenses such as salaries and benefits related to our research department, consulting costs and advisory costs, and regulatory costs.

We expense research and development costs as incurred. Fluctuations in research and development expenses are potentially driven by the timing and cadence of our clinical trials.

Investigation, restatement and related expense

Investigation, restatement and related expense primarily relates to legal fees advanced to certain former officers and directors of the Company under certain indemnification agreements and the Company's liability from legal proceedings taken against us, which arose from the findings of the Audit Committee Investigation. The timing and extent of these expenses depend on the stage and status of legal proceedings. Other activity includes amounts received from certain director and officer insurance providers.

Interest expense

We incur interest expense primarily through stated interest on our outstanding term loan. The interest on our term loan is tied to the three-month London Interbank Offered Rate ("***LIBOR***"), subject to a floor of 1.5%. Increases in LIBOR could cause our interest expense to increase. Other activity influencing interest expense relates to the amortization of deferred financing costs and original issue discount associated with credit facilities outstanding.

Results of Operations for 2021 Compared to 2020

	Year Ended December 31, (in thousands)			
	2021	2020	$ Change	% Change
Net sales	$ 258,615	$ 248,234	$ 10,381	4.2 %
Gross profit	215,332	208,904	6,428	3.1 %
Selling, general and administrative	198,359	181,022	17,337	9.6 %
Research and development	17,344	11,715	5,629	48.0 %
Investigation, restatement and related	3,791	59,465	(55,674)	(93.6)%
Amortization of intangible assets	820	1,073	(253)	(23.6)%
Impairment of intangible assets	53	1,027	(974)	(94.8)%
Loss on extinguishment of debt	—	(8,201)	8,201	—
Interest expense, net	(4,980)	(7,941)	2,961	(37.3)%
Other expense, net	(23)	(3)	(20)	—
Income tax provision (expense) benefit	(247)	12,259	(12,506)	—
Net loss	$ (10,285)	$ (49,284)	$ 38,999	(79.1)%

Net Sales

We recorded net sales for the year ended December 31, 2021 of $258.6 million, an increase of $10.4 million or 4.2% over 2020 net sales of $248.2 million. Net sales for 2021 and 2020 include collections on the Remaining Contracts of $1.0 million and $7.8 million, respectively. Refer to Item 8, Note 2, "*Significant Accounting Policies*," of the consolidated financial statements for additional details regarding the Remaining Contracts.

Adjusted Net Sales, which excludes cash collected on the Remaining Contracts, were $257.6 million in 2021, an increase of $17.1 million or 7.1%, compared to $240.5 million in 2020. Adjusted Net Sales in these periods included net sales of Section 351 products of $17.6 million and $31.8 million in 2021 and 2020, respectively. Adjusted Net Sales is a Non-GAAP measure intended to remove cash collections from the Remaining Contracts, which are not a reflection of recurring revenue. We expect that collections on the Remaining Contracts will be negligible in 2022 and beyond. Refer to the section "*Non-GAAP Financial Measures*" below for more information.

Sales of our Advanced Wound Care products, which excludes the Section 351 Products, increased $31.4 million or 15.0%, year-over-year. This increase was primarily the result of an increase in sales volume due to lessening of restrictions implemented at the onset of the COVID-19 pandemic, including access to hospitals and travel restrictions. The increase also reflects the initial results of our commercial focus on areas of surgical recovery. We also saw growth in our EPIFIX sheet portfolio and the positive impact of sales of our EPICORD Expandable product launched in September 2020.

Refer to Item 8, Note 15, "*Revenue*", for a disaggregation of our sales by product.

Gross Margin

Gross margin in 2021 was 83.3%, compared to 84.2% in 2020. The decrease in gross margin was driven primarily by write-downs of discontinued product recorded during 2021. The write-downs related to our Section 351 Products, which we no longer market in the United States after May 31, 2021, the date the FDA's period of enforcement discretion ended, and certain Advanced Wound Care product lines which we no longer intend to market. We do not currently anticipate significant write-downs of our inventory to recur in 2022.

Selling, General and Administrative Expense

Selling, general and administrative ("***SG&A***") expense increased $17.3 million, or 9.6%, to $198.4 million for 2021, compared to $181.0 million for 2020.

The increase in SG&A expense was driven by:

- the restoration of full-salary levels, which were restricted for a portion of 2020 as part of our response to the COVID-19 pandemic, and merit increases;

- incremental costs associated with the expansion of our sales force;
- higher travel costs during 2021 compared to 2020, as travel was restricted at the onset of the COVID-19 pandemic in 2020;
- a proxy contest during the second quarter of 2021, totaling $3.9 million of expenses; and
- increases in sales commissions, resulting from higher sales volumes.

Research and Development Expense

Our research and development expense increased $5.6 million, or 48.0%, to $17.3 million in 2021, compared to $11.7 million in the prior year.

The increase was driven by higher personnel costs due to headcount increases to support investments in our clinical trials and the restoration of full salary levels and merit increases, which were restricted for a portion of 2020. We also incurred higher consulting fees in 2021, primarily to assist in the evaluation of the results of our clinical trials.

Investigation, Restatement and Related Expense

Investigation, restatement, and related expenses decreased $55.7 million, or 93.6% to $3.8 million for 2021 compared to $59.5 million for 2020. The decrease was the result of:

- lower fees advanced under indemnification agreements with certain former members of management during 2021 compared to 2020;
- recoveries from certain director and officer insurance policies relating to previously-recognized legal expenses in 2021;
- negotiated reductions in previously-recognized legal expenses in 2021; and
- year-over-year reductions in costs related to the restatement of our prior period financial information.

The funds received from insurance providers and reductions in legal expenses were reflected as reductions to expense in the periods in which those transactions occurred.

The restatement of our prior period financial information concluded in 2020 and we will not incur any expenses related to the restatement moving forward.

We remain subject to indemnification agreements with certain former officers and directors of the Company (other than our former Chief Executive Officer and our former Chief Operating Officer) for whom legal proceedings are still ongoing.

Amortization of Intangible Assets

Amortization expense related to intangible assets decreased $0.3 million to $0.8 million in 2021, compared to $1.1 million in 2020. The decrease was the result of intangible assets impaired in 2020.

Impairment of Intangible Assets

Impairment of intangible assets of $0.1 million was recorded in 2021 related to the impairment of a supplier relationship acquired as part of the acquisition of Surgical Biologics, LLC ("***SB***") in 2011.

Impairment of intangible assets of $1.0 million was recorded in 2020 related to the impairment of customer relationships acquired as part of the SB acquisition.

Loss on Extinguishment of Debt

Loss on extinguishment of debt of $8.2 million was recorded in 2020 resulting from the repayment and termination of a previous term loan agreement.

Interest Expense, Net

Interest expense, net decreased by $2.9 million to $5.0 million during 2021 from $7.9 million during 2020. The decrease was the result of less principal outstanding, a lower stated interest rate, and lower amortization of deferred financing costs and original issue discount under the Hayfin Loan Agreement, as defined and described in the Liquidity and Capital Resources section below, compared to our previous term loan agreement which was outstanding for the first half of 2020.

Other Expense, Net

Other expense was negligible in both periods.

Income Tax Provision (Expense) Benefit

The effective tax rate for 2021 was (2.5)% on pre-tax book loss of $10.0 million, primarily reflecting a current tax expense associated with state income taxes and adjustment to federal income tax refund receivable.

Liquidity and Capital Resources

We require capital for our operating activities, including costs associated with the sale of product through direct and indirect sales channels, the conduct of clinical trials and other research and development activities, compliance costs, costs to sell and market our products, regulatory fees, and legal and consulting fees in connection with ongoing litigation and other matters. We generally fund our operating capital requirements through our operating activities and cash reserves. We expect to use capital in the near and medium term to commence late-stage clinical trials for certain of our products, invest in the international expansion of our business and the broadening of our product portfolio, and invest in certain capital projects.

As of December 31, 2021, we had $87.1 million of cash and cash equivalents.

Our net working capital at December 31, 2021 was $106.2 million, an increase of $4.7 million from $101.5 million at December 31, 2020. Our current ratio (current assets divided by current liabilities) was 3.5 to 1 as of December 31, 2021 and 2.7 to 1 as of December 31, 2020.

The Company is currently paying its obligations in the ordinary course of business. We believe that our anticipated cash from operating activities and existing cash and cash equivalents will enable us to meet our operational liquidity needs for the twelve months following the filing date of this Annual Report.

We expect to incur additional costs in connection with the commencement of two late-stage clinical trials. This includes development of protocols, site selection, patient recruitment, start-up costs, ongoing monitoring, and the costs advanced to sites for carrying out such trials. These efforts also require human capital, expertise and resources.

Contractual Obligations

Contractual obligations associated with ongoing business activities are expected to result in cash payments in future periods. The table below summarizes the amounts and estimated timing of these future cash payments as of December 31, 2021 (in thousands):

Contractual Obligations	Total	Less than 1 year	1-3 years	3-5 years	Thereafter
Hayfin Term Loan Principal	$ 50,000	$ —	$ —	$ 50,000	$ —
Hayfin Term Loan Interest	14,632	4,182	8,376	2,074	—
Operating lease obligations	5,886	1,566	3,174	779	367
Finance lease obligations	170	55	110	5	—
Meeting space commitments	701	383	318	—	—
Total	$ 71,389	$ 6,186	$ 11,978	$ 52,858	$ 367

We have not declared or paid any cash dividends on our Series B Convertible Preferred Stock since their issuance. Dividends in arrears as of December 31, 2021 were $7.2 million. These were convertible into 27,850,916 shares as of December 31, 2021. Assuming we do not declare or pay a cash dividend, the holders do not exercise their option to convert, and the other conversion or redemption features are not triggered, we would accrue $6.6 million of dividends in 2022, $14.4 million in aggregate in 1-3 years, and $16.3 million in aggregate in 3-5 years. Refer to Item 8, Note 11, "*Equity*" for more detailed discussion regarding the rights and preferences of our Series B Convertible Preferred Stock.

Term Loan

The Hayfin Loan Agreement was funded on July 2, 2020 and provided us with a senior secured term loan in an aggregate amount of $50 million (the "***Term Loan***"). The Term Loan matures on June 30, 2025 (the "***Maturity Date***"). On February 28, 2022 (the "***Amendment Date***"), we executed an Amendment to the Hayfin Loan Agreement (the "***Amendment***").

No principal payments are due on the Term Loan until the Maturity Date.

Interest is payable on the Term Loan for principal outstanding quarterly through the Maturity Date. The interest rate applicable to any borrowings under the Term Loan is equal to LIBOR (subject to a floor of 1.5%) plus a margin of 6.75%. If LIBOR is unavailable, the loan will carry interest at the greatest of the Prime Rate, the Federal Funds Rate plus 0.5% per annum, and 2.5% plus the Margin.

An additional 3.0% margin would be applied to the interest rate upon the occurrence of an Event of Default as defined in the Hayfin Loan Agreement. At issuance, and as of December 31, 2021, the Term Loan carried an interest rate of 8.3%.

Prior to the Amendment Date, the Hayfin Loan Agreement contained financial covenants requiring the Company, on a consolidated basis, to maintain the following:

- Maximum Total Net Leverage Ratio, required to be calculated on a quarterly basis, of 4.0x; and
- Minimum Liquidity, as defined in the Hayfin Term Loan Agreement, of $10 million, an at-all-times financial covenant, tested monthly.

We were in compliance with all debt covenants as of December 31, 2021.

The Amendment changed these financial covenants and requires the Company, on a consolidated basis, to maintain the following beginning on the Amendment Date and continuing through the Maturity Date:

- Minimum Consolidated Total Net Sales (as defined in the Amendment) of varying amounts, required to be calculated on a quarterly basis,
- Minimum Liquidity of $20 million, an at-all-times financial covenant, tested monthly.

The Hayfin Loan Agreement, as amended, also specifies that any prepayment of the loan, voluntary or mandatory, as defined in the Hayfin Loan Agreement, will subject us to a prepayment premium applicable as of the date of the prepayment calculated as follows:

- On or before July 2, 2023: 2% of the principal balance repaid.
- After July 2, 2023, but on or before July 2, 2024: 1% of the principal balance repaid.
- After July 2, 2024: no premium.

The Hayfin Loan Agreement also includes certain negative covenants and events of default customary for facilities of this type, and upon the occurrence of such events of default, subject to customary cure rights, all outstanding loans under the Hayfin Loan Agreement may be accelerated or the lender's commitments terminated. The mandatory prepayments are also required in the event of a change in control, incurring other indebtedness, certain proceeds from disposal of assets and insured casualty event.

From January 1, 2021, we are required to prepay the outstanding loans based on a percentage of Excess Cash Flow, as defined in the Hayfin Loan Agreement, if Excess Cash Flow is generated, with the percentage determined based on the Total Net Leverage thresholds. To date, we have not been required to make any such prepayments.

A breach of a financial covenant in the Hayfin Loan Agreement, if uncured or unable to be cured, would likely result in an event of default that could trigger the lender's remedies, including acceleration of the entire principal balance of the loan as well

as any applicable prepayment premiums. Future compliance with the financial covenants, as amended, requires continuing growth in net sales consistent with the Company's business strategy and plans. Our business is subject to inherent uncertainties that could impact the Company's net sales growth, including, but not limited to, the regulatory pathway of our cord-derived product.

While we currently have sufficient cash to repay all such amounts in an event of default, we may require alternative financing to cover other obligations. Even if alternative financing were available in an event of default under the Hayfin Loan Agreement, it might be on unfavorable terms, and the interest rate charged on any new borrowings may be substantially higher than the interest rate under the Hayfin Loan Agreement, thus adversely affecting our future cash flows, liquidity, and results of operations.

Series B Preferred Stock

The Company has 100,000 shares of Series B Preferred Stock outstanding as of December 31, 2021.

The Series B Preferred Stock paid a 4.0% cumulative dividend per annum prior to June 30, 2021, and pays a 6.0% cumulative dividend per annum thereafter. Dividends are declared at the sole discretion of our board of directors. Dividends, if declared, are paid in cash at the end of each quarter based on dividend amounts that accumulate beginning on the last payment date through the day prior to the end of each quarter. In lieu of paying a dividend in cash, we may elect to accrue the dividend owed to shareholders. Dividend balances accumulate at the prevailing dividend rate for each dividend period for which they are outstanding.

Each share of Series B Preferred Stock, including any accrued and unpaid dividends, is convertible into our common stock at any time at the option of the holder at a conversion price of $3.85 per common share, or 259.74 common shares for each Series B Preferred Share prior to any accrued and unpaid dividends. The Series B Preferred Stock, including any accrued and unpaid dividends, automatically converts into common stock at any time after July 2, 2023, provided that the common stock has traded at $7.70 or higher (i) for 20 out of 30 consecutive trading days and (ii) on such date of conversion.

If we undergo a change of control, we will have the option to repurchase some or all of the then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference and any accumulated and unpaid dividends, subject to the rights of the holders of the Series B Preferred Stock in connection with such change in control. If we do not exercise such repurchase right, holders of the Series B Preferred Stock will have the option to (1) require us to repurchase any or all of our then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference or (2) convert the Series B Preferred Stock, including accrued and unpaid dividends into common stock and receive its pro rata consideration thereunder.

Liquidity Considerations

Our net sales increased 4% in 2021 compared to 2020. This increase was due primarily to increases in sales volume due to lessening of access restrictions imposed by hospitals and travel restrictions implemented at the onset of the COVID-19 pandemic. However, our sales were negatively impacted by our inability to market our Section 351 products in the United States after May 31, 2021. Sales of our Section 351 products were $17.6 million and $31.8 million in 2021 and 2020, respectively. In addition, there is a possibility that the FDA may rule that our cord-derived products do not meet the requirements to be regulated solely under the authority of Section 361 of the Public Health Service Act, in which case we might need to cease marketing such products in the United States until FDA approval or clearance is secured. Sales of our cord products were $23.6 million and $16.1 million in 2021 and 2020, respectively.

See Item 1A - Risk Factors - "*Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future.***"**

Further, our liquidity will be impacted by expected and unexpected costs, investments in clinical trials to support BLAs, and contingent liabilities:

- Advancement of our clinical trials and BLA pipeline will involve substantial cost. Products subject to the FDA's BLA requirements must comply with a range of pre- and post-market provisions. Pre-market compliance includes the conduct of clinical trials in support of BLA approval, the development and submission of a BLA, and the production of product for use in the clinical trials that meets the FDA's quality expectations. See Item 1A - Risk Factors - "*Obtaining and maintaining the necessary regulatory approvals for certain of our products will be expensive and time*

consuming and may impede our ability to fully exploit our technologies," and *"If any of the BLAs are approved, the Company would be subject to additional regulation which will increase costs and could result in adverse sanctions for non-compliance."*

- The international expansion of our business will require investment through the costs to achieve necessary regulatory approvals and reimbursement schemes, establishing a physical presence through office and warehouse space, identifying and hiring employees, and other costs to establish ongoing operations. Whether we pursue such opportunities will depend on a myriad of factors and the amount and timing of these costs are uncertain at this time.

- We are exposed to potential liabilities and reputational risk associated with litigation, regulatory proceedings, and government enforcement actions. The amounts, if any, for which we may be liable resulting from such proceedings are highly uncertain. See Item 3, "*Legal Proceedings*" and Item 8, Note 14, "*Commitments and Contingencies*" and Item 1A, "*Risk Factors*" - *"We are currently, and may in the future be, subject to substantial litigation and ongoing investigations that could cause us to incur significant legal expenses and result in harm to our business.*

- The application of CGMP requires investment in our manufacturing establishments for production for our micronized products. The transition process includes development and enhancement of production processes, procedures, test and assays, and it requires extensive validation work. It can also involve the procurement and installation of new production or lab equipment. These efforts require human capital, expertise and resources. See Item 1A. – "*Risk Factors*" under the heading "*Certain of our products no longer qualify for regulation as human cells, tissues and cellular and tissue-based products solely under Section 361 of the Public Health Service Act ("Section 361"), which has resulted in removal of the applicable products from the market, made the introduction of some new tissue products more expensive, significantly delayed the expansion of our tissue product offerings and subjected us to additional post-market regulatory requirements. Additional regulatory requirements may be imposed in the future."*

Moreover, the COVID-19 pandemic may affect our operations in 2022 and beyond. More specifically:

- Our results of operations may be adversely affected if our customers restrict access to hospitals and our ability to access other healthcare providers, particularly for elective procedures.

- Our manufacturing operations, sales and demand for our products, and clinical trials may be adversely affected if our leadership, employees, sales agents, suppliers, medical professionals, or users of our products are impacted by illness or through actions taken to stop or slow the spread of the COVID-19 pandemic.

- Our results of operations may be adversely affected if we experience shortages of donated placentas because donors or our recovery specialists are excluded from hospitals, or because additional testing protocols are implemented for donated tissues based on guidance issued by the AATB, FDA, or other standards and are screened as ineligible.

- Because our sales are not evenly spread across the United States, to the extent that areas most impacted by COVID- are those where we have more of our sales, the pandemic will have a greater adverse impact on our results from operations.

- While vaccines have been approved by the FDA, the continued efficacy of the vaccine against current and future variants, as well as the general willingness to accept the vaccine and any recommended "boosters", could influence the magnitude of the impact of the COVID-19 pandemic and any of the factors noted above.

The ultimate impact of the COVID-19 pandemic is highly uncertain. The duration and magnitude of these impacts on our business is uncertain.

Expectations for 2022 Operating Results

We expect net sales of our Advanced Wound Care products, which were $240 million in 2021, to grow 11% to 14% in 2022. We expect gross margin for 2022 to be slightly lower than 2021. We anticipate beginning the Phase 3 Knee Osteoarthritis clinical trial program in 2022, and expect the cost to be approximately $30 million, representing $15 million per trial for two trials incurred over the next three years. We expect research and development expense to increase over 2021 as we plan and begin to execute new clinical trials and execute other product development initiatives. However, the amount and timing of these expenses are dependent on many factors.

Discussion of Cash Flows

Operating Activities

During the year ended December 31, 2021, net cash used in operating activities decreased $28.3 million to $2.0 million compared to $30.3 million for the year ended December 31, 2020. The decrease in cash used was primarily attributable to year-over-year reductions in amounts paid related to the Audit Committee Investigation, the Restatement, and related expenses, particularly those incurred with respect to the Restatement and the indemnification of certain former officers and directors of the Company. In addition, we received $9.2 million in income tax refunds during 2021. These effects were offset by year-over-year increases in SG&A and research and development expense.

Investing Activities

During the year ended December 31, 2021, net cash used in investing activities was $3.4 million, a decrease of $1.2 million, compared to $4.6 million for the year ended December 31, 2020. The primary reason for the decrease was a $1.0 million decrease in capital expenditures, year-over-year. The remaining variance was the result of a year-over-year decrease in paid for patent application costs as well as collections on a note receivable in 2021.

Financing Activities

During the year ended December 31, 2021, net cash used in financing activities was approximately $3.4 million compared to cash provided from financing activities of $61.6 million for the year ended December 31, 2020. Activity in 2020 was driven by the issuance of our Series B Convertible Preferred Stock, for which we received proceeds of $92.5 million, net of stock issuance costs. In addition, we received net proceeds on the borrowing of our Term Loan of $46.3 million, net of deferred financing costs and original issue discount. These proceeds were used to repay the outstanding principal and prepayment premium on a previous term loan of $73.4 million. We did not have a similar financing transaction in 2021.

The remaining variance was driven by year-over-year increases in the cash paid for shares repurchased for tax withholding ($2.4 million), offset by increases in proceeds from option exercises ($1.0 million).

Non-GAAP Financial Measures

In addition to our GAAP results, we provide the following Non-GAAP measures: Adjusted Net Sales, Earnings Before Interest, Taxes, Depreciation and Amortization ("***EBITDA***"), and Adjusted EBITDA. We believe that the presentation of these measures provides important supplemental information to management and investors regarding our performance. These measurements are not, and should not be used as, a substitute for GAAP measures. Company management uses these Non-GAAP measures as aids in monitoring our on-going financial performance from quarter-to-quarter and year-to-year on a regular basis and for benchmarking against comparable companies.

Adjusted Net Sales

We provide Adjusted Net Sales to provide a normalized view of revenue by removing effects related to our Transition Adjustment in revenue recognition practices. Specifically, we recognized a one-time Transition Adjustment in 2019 to reflect the change in our pattern of revenue recognition from a "cash receipts" to an "as-shipped" basis. Since the third quarter of 2019, we have recognized revenue from cash collections related to the Remaining Contracts, or transactions which occurred prior to the Transition but for which we had not previously recognized revenue. Refer to Item 8, Note 2, "*Significant Accounting Policies*," of the consolidated financial statements for additional details regarding the Transition Adjustment and the Remaining Contracts.

Adjusted Net Sales provides comparative assessments of our revenue and assists in evaluating our sales performance. Adjusted Net Sales consists of GAAP net sales less the effects of the Transition. For 2019, this includes the Transition Adjustment and cash received from the Remaining Contracts. For 2020 and 2021, this reflects cash received from the Remaining Contracts. A reconciliation of GAAP net sales to Adjusted Net Sales is provided in the table below (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Net sales	$ 258,615	$ 248,234	$ 299,255
Effect of change in revenue recognition	(1,038)	(7,767)	(29,604)
Adjusted net sales	$ 257,577	$ 240,467	$ 269,651

EBITDA and Adjusted EBITDA

We provide EBITDA and Adjusted EBITDA to facilitate comparisons to results of other companies. We use EBITDA as a measure of our operating performance, planning, and budgeting purposes as it eliminates the effects of financing and investing activities. EBITDA is widely used by investors and analysts to measure operating performance and evaluate enterprise value.

EBITDA consists of GAAP net loss excluding: (i) depreciation, (ii) amortization of intangibles, (iii) interest expense, net, (iv) loss on extinguishment of debt, and (v) income tax provision.

Adjusted EBITDA is intended to provide an enduring, normalized view of EBITDA and our broader business operations that we expect to experience on an ongoing basis by removing from EBITDA certain items which may be irregular, non-recurring, or non-cash items not excluded when calculating EBITDA. This enables us to identify underlying trends in our business that could otherwise be masked by such items.

Adjusted EBITDA consists of GAAP net loss excluding: (i) depreciation, (ii) amortization of intangibles, (iii) interest expense, net, (iv) loss on extinguishment of debt, (v) income tax provision, (vi) costs incurred in connection with Audit Committee Investigation and Restatement, (vii) the effect of the change in revenue recognition on net income, (viii) share-based compensation, and (ix) impairment of intangible assets.

A reconciliation of GAAP net loss to EBITDA and Adjusted EBITDA appears in the table below (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Net loss	$ (10,285)	$ (49,284)	$ (25,580)
Non-GAAP Adjustments:			
Depreciation expense	4,363	5,782	6,546
Amortization of intangible assets	820	1,073	1,039
Interest expense, net	4,980	7,941	4,708
Loss on extinguishment of debt	—	8,201	—
Income tax provision expense (benefit)	247	(12,259)	(5)
EBITDA	$ 125	$ (38,546)	$ (13,292)
Additional Non-GAAP Adjustments:			
Costs incurred in connection with Audit Committee Investigation and Restatement	3,791	59,465	66,504
Effect of change in revenue recognition	(864)	(6,680)	(24,450)
Share-based compensation	14,757	15,357	12,064
Impairment of intangible assets	53	1,027	1,258
Adjusted EBITDA	$ 17,862	$ 30,623	$ 42,084

Critical Accounting Estimates

This Management's Discussion and Analysis of Financial Condition and Results of Operations discusses our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America ("***GAAP***"). The preparation of these financial statements requires that we make judgments and estimates which may affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. We derive these judgments and estimates on historical experience and other relevant factors which we believe to be reasonable. Actual results may differ from these estimates.

Net Sales

Description

We record estimates for returns and allowances as a reduction to net sales based on our expectation for such returns.

Judgments and Uncertainties

We sell our products to individual customer and independent distributors (collectively referred to as "***customers***"). Customers obtain and use products either through ship and bill sales or consignment arrangements. We recognize revenue as performance obligations are fulfilled, which generally occurs upon the shipment of product to customers for ship and bill sales or upon implantation for consignment sales. We recognize revenue based on consideration we expect to receive from the sale. This consists of the gross selling price of the product, less any discounts, rebates, fees paid to GPOs, and an expectation for sales returns.

We maintain a return policy that allows our customers to return product for any reason within 30 days of sale, and to return product that is damaged or non-conforming, ordered in error, or due to recall at any time.

We derive an expectation for product returns based on historical return patterns and other factors, including shifts in our regulatory environment and product recalls. Determinations involving other factors are based on our estimates for product at customer sites that are eligible for return.

Additions or reversals to our return allowance, as determined necessary, are accounted for prospectively and recorded as a decrease or increase to net sales, respectively. Actual returns are recorded against the recorded accrual.

Sensitivity of Estimate to Change

We have accrued $0.8 million for sales returns as of December 31, 2021. Changes in return patterns or unforeseen changes in regulations or identified product recalls could cause returns significantly in excess of this estimate.

Contingencies

Description

We record contingent liabilities related to legal and other proceedings at such point in time when loss is probable and reasonably estimable.

Judgments and Uncertainties

We evaluate the probability of loss and the range of potential losses based on salient details about a case. These evaluations consider evidence derived from discussions with counsel and include the merits and jurisdiction of the proceeding, the nature and the number of other similar current and past proceedings, damages sought by the counterparty, settlement offers we have extended to the counterparty and other factors. From this information, we make a judgmental determination of whether loss from a case is probable and whether a reasonable estimate of loss can be derived. In situations where a reasonable estimate is a range of estimates, we record the most likely amount in the range or, if no single amount is more likely than any of the others, we record the minimum amount of the range.

Sensitivity of Estimate to Change

We have accrued $1.0 million as of December 31, 2021 for potential losses relating to legal proceedings discussed in Item 8, Note 14, *"Commitments and Contingencies."* The outcome of court judgments could lead to a change in our evaluation of probability of loss or our estimate for such loss. In addition, court judgments may result from matters for which we had previously assessed loss as being not probable or which result in losses which materially depart from our estimate, both favorably or unfavorably.

We believe that our estimates applied are based on reasonable assumptions, but are inherently uncertain. Actual results may differ from the assumptions and judgments used to derive our accrual.

Income Taxes

Description

We record a valuation allowance to offset our net deferred tax asset to the extent that realization is not likely.

Judgments and Uncertainties

Deferred income taxes arise from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements. Transactions which result in lower taxable income in the future give rise to deferred tax assets.

We evaluate our ability to recover deferred tax assets based on projected future taxable income, scheduled reversals of deferred tax liabilities, tax planning strategies, and our recent operating results. Judgment is required to determine whether the totality of this evidence suggests that we can recover our deferred tax assets in the future.

Sensitivity of Estimate to Change

As of December 31, 2021, we had valuation allowances recorded of $41.1 million, fully offsetting our net deferred tax asset. This determination may change due to changes in tax law, a revision to our expectation regarding taxable income in the future, taxable income generated in a period in which we had not previously anticipated taxable income, a change in scheduled reversals of deferred tax liabilities, and other changes.

Historically, exclusive of changes in tax law such as that enacted under the Coronavirus Aid, Relief and Economic Security Act, we have not reversed our valuation allowance.

If the weight of available evidence suggests that some or all of this amount is more likely than not to be realized, we will derecognize the valuation allowance as an income tax benefit to the extent that the underlying deferred tax asset is more likely than not to be realized.

Recently Adopted Accounting Pronouncements

See Note 2, "*Significant Accounting Policies*," in the Consolidated Financial Statements for recently adopted accounting pronouncements.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Based on our lack of market risk sensitive instruments outstanding at December 31, 2021, we have determined that we had no material market risk exposure as of such date.

Item 8. Financial Statements and Supplementary Data

Index to Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of MiMedx Group, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheet of MiMedx Group, Inc. and subsidiaries (the "Company") as of December 31, 2021, the related consolidated statements of operations, stockholders' equity (deficit), and cash flows, for the year then ended, and the related notes and the schedule listed in the Index at Item 8 (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2021, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 28, 2022, expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audit included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audit provides a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Net Sales - Timing of Revenue Recognition — Refer to Note 2 to the Financial Statements

Critical Audit Matter Description

The Company sells its products primarily to individual customers and independent distributors (collectively referred to as “customers”). Customers obtain and use products either through ship and bill sales or consignment arrangements. Under ship and bill arrangements, the Company retains possession of the product until the customer submits an order and the product ordered is shipped to the customer. Under consignment arrangements, the customer takes possession of the product, but the Company retains title until the implantation, or application of the Company’s product to the end user. The Company recognizes revenue as performance obligations are fulfilled, which generally occurs upon the shipment of product to the customers for ship and bill orders or upon implantation for consignment sales.

We identified the timing of revenue recognition for ship and bill and consignment sales at or near year-end as a critical audit matter because of the judgments involved in evaluating that the performance obligations are fulfilled. This required extensive audit effort due to the volume of transactions and a high degree of auditor judgment when performing audit procedures and evaluating the results of those procedures.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the timing of revenue recognition transactions included the following, among others:

- We created data visualizations using a detail of all revenue transactions and evaluated trends in the transactional revenue data with emphasis on activity at or near period end.
- We evaluated and tested corollary relationships between revenue and related accounts.
- We evaluated the appropriateness and consistency of the methods and assumptions utilized by management to estimate consignment revenue.
- We tested a sample of consignment revenue transactions manually accrued as of year-end and evaluated whether the transactions were recorded in the correct period.
- We tested a sample of ship and bill revenue transactions close to period end by agreeing the amounts recognized to source documents and evaluating whether the transaction was recorded in the correct period.
- We tested a sample of credits issued after year-end by agreeing to documents supporting the authorization for the issuance of the credit and to evaluate if the credit was issued in the correct period.

/s/ Deloitte & Touche LLP
Atlanta, Georgia
February 28, 2022

We have served as the Company's auditor since 2021.

Report of Independent Registered Public Accounting Firm

Shareholders and Board of Directors
MiMedx Group, Inc.
Marietta, Georgia

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheet of MiMedx Group, Inc. (the "Company") as of December 31, 2020, the related consolidated statements of operations, stockholders' equity (deficit), and cash flows for each of the two years in the period ended December 31, 2020, and the related notes and schedule (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2020, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2020, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the audit of the consolidated financial statements for the year ended December 31, 2020 that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which it relates.

Evaluation of the audit evidence for revenue recognition

The Company recorded consolidated net sales of $248.2 million for the year ended December 31, 2020. As more fully described in Note 2 to the consolidated financial statements, during 2018 and into part of 2019, the Company's control environment was such that it created uncertainty surrounding all of its customer arrangements. The control environment allowed for the existence of extra-contractual or undocumented terms or arrangements initiated by or agreed to by the Company and former members of Company management at the outset of the transactions (side agreements). Concessions were also agreed to subsequent to the initial sale (e.g. sales above established customer credit limits, extended and unusually long payment terms, return or exchange rights, and contingent payment obligations). Beginning October 1, 2019, for all new customer arrangements, the Company determined adequate measures were in place to understand the terms of its contracts with customers. As such, the Company concluded that the Step 1 Criteria (identify the contracts with a customer) for revenue recognition would be met prior to shipment of product to the customer or implantation of the products on consignment.

We identified the evaluation of the sufficiency of audit evidence over revenue recognition as a critical audit matter. Evaluating the sufficiency of audit evidence required especially challenging auditor judgment to determine that extracontractual arrangements or side agreements did not exist at the onset of the transaction and that fictitious customer purchase orders were not entered into the system by sales personnel.

The primary procedures we performed to address this critical audit matter included:

- Testing the design and operating effectiveness of internal controls over the Company’s revenue processes, including controls over management’s review of the Step 1 Criteria.
- Testing the existence of revenue by selecting a sample of revenue transactions and comparing the amounts recorded for consistency with the underlying documentation, including the customer contract, purchase order, sales invoice, third party shipping documents, support documenting the implantation date (for consignment revenue), authorized pricing tables and customer payment support.
- Obtaining the monthly sales returns information recorded during 2020 to determine whether any unauthorized side agreements existed.
- Obtaining the January and February 2021 sales returns information to determine the completeness of the sales returns and associated credit memos.
- Performing data analytics over revenue transactions (excluding consignment and cash basis revenue) during the year ensuring a match of the sales order, sales invoice, shipping documents and payment support and investigating any items that did not agree.

/s/ BDO USA, LLP
We served as the Company's auditor from 2019 to 2020.
Atlanta, Georgia
March 8, 2021

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	December 31, 2021	December 31, 2020
ASSETS		
Current assets:		
Cash and cash equivalents	$ 87,083	$ 95,812
Accounts receivable, net	40,353	35,423
Inventory	11,389	10,361
Prepaid expenses	6,146	5,605
Income tax receivable	743	10,045
Other current assets	2,809	3,371
Total current assets	148,523	160,617
Property and equipment, net	9,165	11,437
Right of use asset	4,696	3,623
Goodwill	19,976	19,976
Intangible assets, net	5,383	6,004
Other assets	186	375
Total assets	$ 187,929	$ 202,032
LIABILITIES, CONVERTIBLE PREFERRED STOCK, AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	$ 7,385	$ 8,765
Accrued compensation	23,595	18,467
Accrued expenses	9,812	30,460
Other current liabilities	1,565	1,470
Total current liabilities	42,357	59,162
Long term debt, net	48,127	47,697
Other liabilities	4,869	3,755
Total liabilities	$ 95,353	$ 110,614
Commitments and contingencies (Note 14)		
Convertible preferred stock Series B; $.001 par value; 100,000 shares authorized, issued and outstanding at December 31, 2021 and December 31, 2020	$ 92,494	$ 91,568
Stockholders' equity (deficit):		
Preferred stock Series A; $.001 par value; 5,000,000 shares authorized; 0 issued and outstanding at December 31, 2021 and 0 issued and outstanding at December 31, 2020	$ —	$ —
Common stock; $.001 par value; 187,500,000 shares authorized, 112,703,926 issued, and 111,925,216 outstanding at December 31, 2021 and 110,930,243 outstanding at December 31, 2020	113	113
Additional paid-in capital	165,695	158,610
Treasury stock at cost; 778,710 shares at December 31, 2021 and 1,773,683 shares at December 31, 2020	(4,017)	(7,449)
Accumulated deficit	(161,709)	(151,424)
Total stockholders' equity (deficit)	82	(150)
Total liabilities, convertible preferred stock, and stockholders' equity (deficit)	$ 187,929	$ 202,032

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except share and per share data)

	Year Ended December 31,		
	2021	2020	2019
Net sales	$ 258,615	$ 248,234	$ 299,255
Cost of sales	43,283	39,330	43,081
Gross profit	215,332	208,904	256,174
Operating expenses:			
Selling, general and administrative	198,359	181,022	198,205
Research and development	17,344	11,715	11,140
Investigation, restatement and related	3,791	59,465	66,504
Amortization of intangible assets	820	1,073	1,039
Impairment of intangible assets	53	1,027	446
Operating loss	(5,035)	(45,398)	(21,160)
Other (expense) income			
Loss on extinguishment of debt	—	(8,201)	—
Interest expense, net	(4,980)	(7,941)	(4,708)
Other (expense) income, net	(23)	(3)	283
Loss before income tax provision	(10,038)	(61,543)	(25,585)
Income tax provision (expense) benefit	(247)	12,259	5
Net loss	$ (10,285)	$ (49,284)	$ (25,580)
Net loss available to common stockholders (Note 10)	$ (16,421)	$ (83,328)	$ (25,580)
Net loss per common share - basic	$ (0.15)	$ (0.77)	$ (0.24)
Net loss per common share - diluted	$ (0.15)	$ (0.77)	$ (0.24)
Weighted average common shares outstanding - basic	110,353,406	108,257,112	106,946,384
Weighted average common shares outstanding - diluted	110,353,406	108,257,112	106,946,384

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
(in thousands, except share data)

	Common Stock		Additional Paid-in	Treasury Stock		Accumulated	
	Shares	Amount	Capital	Shares	Amount	Deficit	Total
Balance at December 31, 2018	112,703,926	$ 113	$ 164,744	3,605,263	$ (38,642)	$ (76,560)	$ 49,655
Share-based compensation expense	—	—	11,689	—	—	—	11,689
Exercise of stock options	—	—	(1,343)	(150,000)	1,451	—	108
Issuance of restricted stock	—	—	(37,798)	(3,084,875)	37,798	—	—
Restricted stock shares canceled/forfeited	—	—	9,939	1,084,971	(9,939)	—	—
Shares repurchased for tax withholding	—	—	—	429,918	(1,474)	—	(1,474)
Net loss	—	—	—	—	—	(25,580)	(25,580)
Balance at December 31, 2019	112,703,926	$ 113	$ 147,231	1,885,277	$ (10,806)	$ (102,140)	$ 34,398
Issuance of Series B Convertible Preferred Stock	—	—	32,954	—	—	—	32,954
Deemed dividends	—	—	(32,028)	—	—	—	(32,028)
Share-based compensation expense	—	—	15,733	—	—	—	15,733
Exercise of stock options	—	—	(3,180)	(359,328)	3,591	—	411
Issuance of restricted stock	—	—	(5,463)	(613,146)	5,463	—	—
Restricted stock shares canceled/forfeited	—	—	3,363	425,388	(3,363)	—	—
Shares repurchased for tax withholding	—	—	—	435,492	(2,334)	—	(2,334)
Net loss	—	—	—	—	—	(49,284)	(49,284)
Balance at December 31, 2020	112,703,926	$ 113	$ 158,610	1,773,683	$ (7,449)	$ (151,424)	$ (150)
Deemed dividends	—	—	(926)	—	—	—	(926)
Shares repurchased for tax withholding	—	—	—	469,239	(4,751)	—	(4,751)
Share-based compensation expense	—	—	14,757	—		—	14,757
Exercise of stock options	—	—	(1,199)	(487,361)	2,636	—	1,437
Issuance of restricted stock	—	—	(4,053)	(810,405)	4,053	—	—
Restricted stock shares canceled/forfeited	—	—	515	73,056	(515)	—	—
Other	—	—	(2,009)	(239,502)	2,009	—	—
Net loss	—	—	—	—	—	(10,285)	(10,285)
Balance at December 31, 2021	112,703,926	$ 113	$ 165,695	778,710	$ (4,017)	$ (161,709)	$ 82

See notes to the consolidated financial statements.

MIMEDX GROUP, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Years Ended December 31,		
	2021	2020	2019
Cash flows from operating activities:			
Net loss	$ (10,285)	$ (49,284)	$ (25,580)
Adjustments to reconcile net loss to net cash used in operating activities:			
Share-based compensation	14,757	15,357	12,064
Depreciation	4,363	5,782	6,546
Amortization of deferred financing costs and debt discount	1,055	2,276	1,431
Non cash lease expenses	989	983	947
Amortization of intangible assets	820	1,073	1,039
Loss on fixed asset disposal	262	1	318
Accretion of asset retirement obligation	81	10	—
Impairment of intangible assets	53	1,027	1,258
Loss on extinguishment of debt	—	8,201	—
Effect of change in revenue recognition	—	—	(17,382)
Increase (decrease) in cash resulting from changes in:			
Accounts receivable	(4,930)	(3,096)	(10,938)
Inventory	(1,028)	(1,257)	6,882
Prepaid expenses	(542)	1,064	4
Other assets	675	(119)	(5,770)
Accounts payable	(326)	177	(6,171)
Accrued compensation	5,128	(2,459)	(1,722)
Accrued expenses	(21,197)	1,746	(57)
Income taxes	9,302	(10,027)	436
Other liabilities	(1,159)	(1,718)	(2,717)
Net cash flows used in operating activities	(1,982)	(30,263)	(39,412)
Cash flows from investing activities:			
Purchases of property and equipment	(3,218)	(4,228)	(1,752)
Patent application costs	(252)	(327)	(466)
Principal payments from note receivable	75	—	2,722
Net cash flows (used in) provided by investing activities	(3,395)	(4,555)	504
Cash flows from financing activities:			
Stock repurchased for tax withholdings on vesting of restricted stock	(4,751)	(2,334)	(1,474)
Proceeds from exercise of stock options	1,437	411	108
Payments under finance lease obligations	(38)	—	—
Proceeds from sale of Series B convertible preferred stock	—	100,000	—
Stock issuance costs	—	(7,470)	—
Proceeds from term loans	—	59,500	72,750
Deferred financing costs	—	(3,235)	(6,650)
Repayment of term loans	—	(83,872)	(1,875)
Prepayment premium on early repayment of term loan	—	(1,439)	—
Net cash flows (used in) provided by financing activities	(3,352)	61,561	62,859
Net change in cash	(8,729)	26,743	23,951
Cash and cash equivalents, beginning of year	95,812	69,069	45,118
Cash and cash equivalents, end of year	$ 87,083	$ 95,812	$ 69,069

See notes to the consolidated financial statements.

1. Nature of Business

MiMedx Group, Inc. (together with its subsidiaries, except where the context otherwise requires, "***MIMEDX***," or the "***Company***") is a transformational placental biologics company, developing and distributing placental tissue allografts with patent-protected, proprietary processes for multiple sectors of healthcare. As a pioneer in placental biologics, the Company is focused on addressing unmet clinical needs in the areas of advanced wound care, surgical recovery applications, and musculoskeletal conditions. We derive our products from human placental tissues and process these tissues using our proprietary methods, including the PURION® process. The Company applies Current Good Tissue Practices, Current Good Manufacturing Practices, and terminal sterilization to produce its allografts. MIMEDX provides products primarily in the wound care, burn, and surgical recovery sectors of healthcare. All of its products are regulated by the U.S. Food & Drug Administration ("***FDA"***).

The Company's business model is focused primarily on the United States of America but the Company is pursuing opportunities for international expansion.

Effect of the COVID-19 Pandemic

On March 11, 2020, the World Health Organization designated the outbreak of a novel strain of coronavirus as a global pandemic. The COVID-19 pandemic and associated governmental and societal responses have affected the Company's business, results of operations and financial condition in the past and could continue to have an adverse impact on the Company's business, results of operations, and financial condition in the future.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (the "***CARES Act***") was signed into law. The CARES Act included provisions relating to refundable payroll tax credits, deferment of the employer portion of certain payroll taxes, loans, and grants to certain businesses, net operating loss carryback periods, alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. Certain of these provisions were extended or expanded as a result of the Consolidated Appropriations Act, 2021, which was signed into law on December 27, 2020. As a result of these laws, the Company recorded a federal tax benefit of $11.3 million due to the release of a previously-recorded valuation allowance in 2020. Of this amount, the Company received $9.2 million and $1.2 million during the years ended December 31, 2021 and 2020, respectively. The remaining $0.9 million is recorded as part of income tax receivable on the consolidated balance sheet as of December 31, 2021.

In addition, the CARES Act provided an employee retention credit (***"ERC"***), which was a refundable tax credit against certain payroll taxes. Upon determination that the Company had complied with all of the conditions required to receive the credit, the Company qualified and filed to claim the ERC. The Company reflected the ERC as a reduction to the respective captions on the consolidated statements of operations associated with the employees to which the payroll tax benefit related. For the year ended December 31, 2021, the Company recorded a $1.6 million reduction to selling, general and administrative expense. As of December 31, 2021, the Company recorded $1.6 million as other current assets in the consolidated balance sheet.

Enforcement Discretion

In November 2017, the FDA published a series of guidances that established an updated framework for the regulation of cellular and tissue-based products. These guidances clarified the FDA's views about the criteria that differentiate those products subject to regulation under Section 361 of the Public Health Service Act from those considered to be drugs, devices, and/or biological products subject to licensure under Section 351 of the Public Health Service Act and related regulations. The Company identified its micronized and particulate products (collectively, the "***Section 351 Products***") as being subject to regulation under Section 351, requiring pre-market approval from the FDA for a specified indication with demonstrated clinical efficacy.

The FDA exercised enforcement discretion with respect to Investigational New Drug ("***IND***") applications and pre-market approval requirements through May 31, 2021. As of May 31, 2021, the Company stopped marketing its Section 351 Products in the United States and is precluded from marketing such products until a Biologics License Application ("***BLA***") is granted. If and when the FDA approves a BLA, the Company expects to be allowed to market its Section 351 Products in the United States, but only for specific indications as permitted by the FDA. Sales of the Company's Section 351 Products were $17.6 million and $31.8 million for the years ended December 31, 2021 and 2020, respectively. Sales of Section 351 Products for the year ended December 31, 2021 reflects the sale of such products in the United States through May 31, 2021.

The Company currently markets EPICORD® and AMNIOCORD® tissue products derived from human umbilical cord as providing a protective environment or as a barrier. If the FDA were to determine that EPICORD and AMNIOCORD do not meet the requirements for regulation solely under Section 361, then pre-market clearance or approval would be required. The loss of the Company's ability to market and sell its umbilical cord-derived products would have an adverse effect on the Company's revenue, business, financial condition, and results of operations. Net sales of the Company's umbilical cord-derived products were $23.6 million and $16.1 million for the years ended December 31, 2021 and 2020, respectively. The Company's cord inventory was $1.9 million as of December 31, 2021.

Out-of-Period Adjustment

During the year ended December 31, 2021, the Company identified certain Restricted Stock Unit and Performance Stock Unit awards that were not appropriately reflected in the Company's balance of common stock outstanding beginning in 2019. The effects of these errors caused misstatements in the Company's balance of treasury stock, additional paid-in capital, and common stock outstanding on each of the Company's reported consolidated balance sheets and consolidated statements of stockholders' equity (deficit) for interim and annual periods beginning with those statements as of and for the year ended December 31, 2019. The identified errors did not affect total stockholders' equity (deficit) or earnings per share in any period.

The Company recorded an out-of-period adjustment during the year ended December 31, 2021, which resulted in a decrease of $2.0 million to the balance of additional paid-in capital for the year ended December 31, 2021 and an increase of $2.0 million to the balance of treasury stock.

The Company concluded the effect of the misstatement was not material, qualitatively or quantitatively, to any interim or annual period. These amounts are reflected as part of other in the consolidated statement of stockholders' equity (deficit) for the year ended December 31, 2021.

2. Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of MiMedx Group, Inc. and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated upon consolidation.

Use of Estimates

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("***GAAP***"). Generally accepted accounting principles require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported consolidated statements of operations during the reporting period. Actual results could differ from those estimates. Significant estimates include estimated useful lives and potential impairment of property and equipment, goodwill and intangible assets, estimates of loss for contingent liabilities, estimate of allowance for doubtful accounts, management's assessment of the Company's ability to continue as a going concern, estimate of fair value of share-based payments, estimates of returns and allowances, and valuation of deferred tax assets.

Segment Reporting

Accounting Standards Codification ("***ASC***") 280, "*Segment Reporting*" requires the use of the "management approach" model for segment reporting. The management approach model is based on the way a company's chief operating decision maker organizes segments within the Company for which separate discrete financial information is available regarding resource allocation and assessing performance. The Company has determined it operates as one operating segment.

Cash and Cash Equivalents

Cash and cash equivalents include cash held at various banks. The Company considers all highly-liquid investments purchased with an original maturity of three months or less at the date of purchase and money market mutual funds to be cash equivalents.

Market Concentrations and Credit Risk

The Company places its cash and cash equivalents on deposit with U.S.-based financial institutions. The U.S. Federal Deposit Insurance Corporation ("***FDIC***") provides insurance coverage for deposits up to $250,000 for substantially all depository accounts. As of December 31, 2021 and 2020, the Company had cash and cash equivalents of approximately $86.4 million and $95.1 million, respectively, in excess of the insured amounts in four depository institutions.

Accounts Receivable

Accounts receivable represent amounts due from customers for which revenue has been recognized. Generally, the Company does not require collateral or any other security to support its receivables.

Bad debt expense and the allowance for doubtful accounts are based on historical trends and current expectations for credit losses. The Company's policy to reserve for potential bad debts is based on the aging of the individual receivables as well as customer-specific qualitative factors, such as bankruptcy proceedings. The Company manages credit risk by routinely performing credit checks on customers prior to sales. The individual receivables are written-off after all reasonable efforts to collect the funds have been made. Actual write-offs may differ from the amounts reserved.

Inventory

Inventory is valued at the lower of cost or net realizable value. Costs of inventory sold are recognized using the first–in, first-out ("***FIFO***") method. Inventory is tracked through raw material, work-in-process, and finished goods stages as the product progresses through various production steps and stocking locations. Labor and overhead costs are absorbed through the various production processes up to when the work order closes. Historical yields and normal capacities are utilized in the calculation of production overhead rates. Write-downs are utilized to account for slow-moving inventory as well as inventory no longer needed due to diminished demand or regulatory action.

Property and Equipment

Property and equipment are recorded at cost and depreciated on a straight-line method over their estimated useful lives, principally three to seven years. Leasehold improvements are depreciated on a straight-line method over the shorter of the estimated useful lives and the remaining lease term.

Asset Retirement Obligations

The Company records obligations associated with the legal requirement to retire long-lived assets at the sooner of the imposition of the legal requirement and when an estimate for the cost of retirement can reasonably be made. The Company reviews legal obligations associated with the retirement of long-lived assets that result from contractual obligations or the acquisition, construction, development and/or normal use of the assets. If it is determined that a legal obligation exists, regardless of whether the obligation is conditional on a future event, the fair value of the liability for an asset retirement obligation is recognized in the period in which it is incurred, if a reasonable estimate of fair value can be made. The fair value is calculated as the estimate of the expected cash outflow to satisfy the legal obligation discounted to present value using the Company's incremental borrowing rate. At such point in time, an asset and liability are recorded for the amount of the expected liability. The asset amount is depreciated, straight-line, over the life of the underlying asset, while the liability is accreted to the amount of the expected outflow through selling, general and administrative expense using the effective interest method. Subsequent revisions to estimates for future cash flows related to the asset retirement obligations are recorded as equal increases or decreases to the retirement asset and liability.

Impairment of Long-lived Assets

The Company evaluates the recoverability of its long-lived assets (property, equipment, right of use, and intangible assets with finite lives) whenever adverse events or changes in business climate indicate that the expected undiscounted future cash flows from the related assets may be less than their carrying amounts. When a situation arises which results in a conclusion that it is more likely than not that an asset is not recoverable, the Company estimates cash flows expected to be derived from the continuing use and eventual disposition of the asset. If the sum of those cash flows, not discounted to present value, does not exceed the net book value of the asset, the Company estimates the fair value of the asset. Impairment loss is recorded to the extent that the net book value exceeds the fair value of the asset.

Impairment reviews are based on an estimated future cash flow approach that requires significant judgment with respect to future revenue and expense growth rates, selection of appropriate discount rate, asset groupings, and other assumptions and estimates. The Company uses estimates that are consistent with its business plans and a market participant view of the assets being evaluated. Actual results may differ from these estimates.

The Company recorded impairment losses on amortizable intangible assets of $0.1 million, $1.0 million, and $0.5 million in in 2021, 2020, and 2019, respectively. The Company recorded no impairment losses with respect to any other classes of long-lived assets in those periods.

Goodwill and Indefinite-lived Intangible Assets

Goodwill represents the excess of purchase price over the fair value of net assets of acquired businesses. The Company assesses goodwill for impairment at least annually on October 1, or more frequently whenever events or substantive changes in circumstances indicate that it is more likely than not that goodwill is impaired. In performing the goodwill impairment test, the Company assesses qualitative factors to determine the existence of impairment. If the qualitative factors indicate that it is more likely than not that the carrying value of the reporting unit exceeds its fair value, the Company proceeds to a quantitative test to measure the existence and amount of goodwill impairment. The Company may also choose to bypass the qualitative assessment and proceed directly to the quantitative analysis.

The Company has one reporting unit.

In performing the quantitative test, impairment loss is recorded to the extent that the carrying value of the reporting unit exceeds its assessed fair value, not to exceed goodwill allocated to that reporting unit. No impairment is recognized if fair value is determined to exceed carrying value. The Company determines the fair value utilizing the income and market approaches. Under the income approach, the fair value of the reporting unit is the present value of its future cash flows. These future cash flows are derived from expectations of revenue, expenses, tax deductions, working capital flows, capital expenditures, and other projected sources and uses of cash. Value indications are developed by discounting expected cash flows to their present value at a risk-adjusted weighted average cost of capital using the capitalization of market-comparable companies. The weighted average cost of capital is rooted in the risk-free rate of a U.S. Treasury with a similar maturity to the time period evaluated, credit risk specific to the Company, relevant equity risk premia, the Company’s incremental borrowing rate, and the prevailing marginal income tax rate. Under the market approach, the Company uses its market capitalization, which is calculated by taking the Company’s share price multiplied by the number of outstanding common shares plus the number of common shares to which the holders of the Company’s Convertible preferred stock Series B would be entitled to upon conversion.

Acquired indefinite-lived intangible assets are tested for impairment annually on October 1 or whenever events or changes in circumstances indicate that the carrying amount of an intangible asset may not be recoverable. The Company’s impairment reviews are based on an estimated future cash flow approach that requires significant judgment with respect to future revenue and expense growth estimates. The Company uses estimates consistent with business plans and a market participant view of the assets being evaluated. Actual results may differ from the estimates used in these analyses.

For the goodwill impairment test performed on October 1, 2021, the Company performed a qualitative assessment for its reporting unit, concluding that it was not more likely than not that the carrying value of the reporting unit exceeded its fair value. Therefore, the Company did not perform a quantitative assessment and no goodwill impairment was recognized related to this test.

There were no recorded impairment losses related to goodwill in 2021, 2020, or 2019. The Company recorded impairment losses related to our indefinite-lived intangible assets of $0, $0, and $0.8 million related to the abandonment of patents in process during 2021, 2020, and 2019, respectively.

Patent Costs

The Company incurs certain legal and related costs in connection with patent applications. The Company capitalizes such costs to be amortized over the expected life of the patent to the extent that an economic benefit is anticipated from the resulting patent or an alternative future use is available to the Company. The Company capitalized $0.3 million, $0.3 million, and $0.5 million of patent costs for the years ended December 31, 2021, 2020, and 2019, respectively.

Leases

The Company determines if a contract is, or contains, a lease at inception. Leases provide the Company with the right to control an underlying asset for a contractual term, subject to certain renewal and other rights, in exchange for a series of stipulated cash

flows. Right of use ("***ROU***") assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease.

Lease assets and liabilities are recognized at the lease commencement date based on the estimated present value of lease payments over the lease term. The Company calculates the present value of lease payments by discounting the lease payments using the Company's incremental borrowing rate for a collateralized or secured borrowing over a term equivalent to that of the lease. Lease payments that vary according to an index or rate are measured using the index or rate at lease inception. The lease term and applicable payments include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Options to renew or terminate a lease are included in the lease term to the extent that such provisions are reasonably certain to be exercised. This determination is reassessed as new information arises and is accounted for prospectively. As an accounting policy election, the Company does not capitalize leases having initial terms of 12 months or fewer. The Company has made an accounting policy election not to separate lease components from non-lease components in the event that the agreement contains both.

Operating lease right of use assets and the related liabilities are included in right of use asset, other current liabilities, and other liabilities, respectively, in the consolidated balance sheets. Lease expense associated with operating leases is recognized, straight-line, over the lease term. The Company does not recognize interest expense as part of operating lease liabilities.

Finance lease right of use assets and the related liabilities are included in property and equipment, net, other current liabilities, and other liabilities, respectively, in the consolidated balance sheets. Finance lease right of use assets are amortized, straight-line, over the lease term as depreciation expense. Interest expense is recognized using the effective interest method on finance lease liabilities as part of interest expense, net.

Treasury Stock

Shares repurchased by the Company are recorded as treasury stock at the cost to acquire such shares. Subsequent issuances of shares held in treasury are assumed to be released on a FIFO basis.

Contingencies

The Company is or has been subject to various patent challenges, product liability claims, government investigations, former employee matters, and other legal proceedings, see Note 14, "*Commitments and Contingencies*." Legal fees and other expenses related to litigation are expensed as incurred and included in selling, general and administrative expenses in the consolidated statements of operations. The Company records an accrual for resolution costs and other contingencies in the consolidated financial statements when the Company determines that a loss is both probable and reasonably estimable. Subsequent revisions to the Company's accrual are made as new information emerges and are accounted for prospectively. The Company discloses all ongoing legal matters for which a loss is reasonably possible, regardless of whether an estimate can be reasonably determined.

Due to the fact that legal proceedings and other contingencies are inherently unpredictable, the Company's estimates of the probability and amount of any such liabilities involve significant judgment regarding future events. The actual costs of resolving a claim may be substantially different from the amount of reserve the Company recorded. The Company records a receivable from its insurance carriers only when the resolution of any dispute has been reached and realization of the amounts equal to the potential claim for recovery is considered probable. Any recovery of an amount in excess of the related recorded contingent loss will be recognized only when all contingencies relating to recovery have been resolved.

Revenue Recognition

The Company sells its products primarily to individual customers and independent distributors (collectively referred to as "***customers***"). Customers obtain and use products either through ship and bill sales or consignment arrangements. Under ship and bill arrangements, the Company retains possession of the product until the customer submits an order. Upon approval of the sales order, the Company ships product to the customer and invoices them for the product sold. Under consignment arrangements, the customer takes possession of the product, but the Company retains title until the implantation, or application of the Company's product to the end user.

Subsequent to the Transition (as defined below) and including all of the years ended December 31, 2021 and 2020, the Company recognizes revenue as performance obligations are fulfilled, which generally occurs upon the shipment of product to the customers for ship and bill orders or upon implantation for consignment sales.

Revenue is recognized based on the consideration the Company expects to receive from the sale. This consists of the gross selling price of the product, less any discounts, rebates, fees paid to Group Purchasing Organizations ("***GPOs***"), and returns

(collectively, "***deductions***" or "***sales deductions***"). Gross selling price is a standard set by the Company for all customers unless a contract governing the sale provides for a specified price. Sales deductions are specified in individual contracts with customers. The Company estimates the total sales deductions which a specific customer will achieve over the relevant term and applies the reduction to sales as they are made throughout the period.

Sales deductions owed to customers and other parties are accrued and recorded in accrued expenses on the consolidated balance sheets.

The Company acts as the principal in all of its customer arrangements and records revenue on a gross basis. Shipping is considered immaterial in the context of the overall customer arrangement, and damages or loss of goods in transit are rare. Therefore, shipping is not deemed a separately recognized performance obligation and the Company has elected to treat shipping costs as activities to fulfill the promise to transfer the product. The Company maintains a returns policy that allows its customers to return product that is damaged or non-conforming, ordered in error, or due to a recall. The estimate of the provision for returns is based upon historical experience with actual returns. The Company's payment terms for customers are typically 30 to 60 days from receipt of title of the goods.

Previous Revenue Recognition Policy and Transition

During the first three quarters of 2019, the Company's control environment was such that it created uncertainty surrounding all of its customer arrangements, which required consideration related to the proper revenue recognition under the applicable literature. The control environment allowed for the existence of extra-contractual or undocumented terms or arrangements initiated by or agreed to by the Company and former members of Company management at the outset of the transactions (side agreements). Concessions were also agreed to subsequent to the initial sale (*e.g*. sales above established customer credit limits extended and unusually long payment terms, return or exchange rights, and contingent payment obligations) that precluded the Company from recognizing revenue at the time that product was shipped to a customer.

Because of the prevalence of these arrangements, the Company's sales arrangements did not qualify as contracts under ASC 606, *Revenue from Contracts with Customers*, until consideration was collected from customers. This determination precluded the recognition of revenue at the time of shipment. Instead, recognition of revenue was deferred until: (1) the customer returned the product prior to payment; or (2) the Company received payment from the customer. Cost of sales associated with product shipped was deferred until collection was received.

The Company implemented changes and remediated weaknesses, which gave rise to the above conclusion beginning in mid-2018. Management concluded that these efforts had been sufficiently implemented such that customers were aware of the Company's sales policies and procedures and that a contract existed prior to the transfer of title or the implantation of product for ship-and-bill and consignment sales, respectively, by the third quarter of 2019. Accordingly, the Company changed its pattern of revenue recognition effective October 1, 2019 to the policy described under the section titled "*Current Policy*" above.

The Company also reassessed whether the revenue recognition criteria had been met for all shipments of products where payment had not been received as of September 30, 2019. While the measures summarized above provided significant evidence necessary to understand the terms of the Company's contractual arrangements with its customers, certain of these customers continued to exhibit behaviors that resulted in extended periods until cash collection. Such delays in collection suggested that uncertainty regarding extra-contractual arrangements may continue, particularly as it relates to payment terms. As a result, the Company concluded the following for any existing arrangements, which remained unpaid at September 30, 2019:

- For customer arrangements where collection was considered probable within 90 days from the date of original shipment or implantation of the products, the Company concluded the revenue recognition criteria were met (the "***Transition Adjustment***").

- For the remaining customer arrangements (the "***Remaining Contracts***"), the Company concluded that, due to the uncertainty that extra-contractual arrangements may continue, the revenue recognition criteria would not be satisfied until the Company received payment from the customer. At that point, the Company determined that an accounting contract would exist and the performance obligations of the Company to deliver product and the customer to pay for the product would be satisfied. The Company continued to reassess the Remaining Contracts for settlement of the revenue recognition criteria prior to payment, concluding that the revenue recognition criteria continued to not be met due to the same circumstances described above.

The effect of the Transition Adjustment and cash collections on the Remaining Contracts on net sales and cost of sales for each of the years ended December 31, 2021, 2020, and 2019 were as follows (amounts in thousands):

	Year Ended December 31,		
Net sales	2021	2020	2019
Transition Adjustment	$ —	$ —	$ 21,385
Collections on Remaining Contracts	1,038	7,767	8,219
Net sales	1,038	7,767	29,604
Cost of sales			
Transition Adjustment	—	—	2,565
Collections on Remaining Contracts	145	1,087	1,151
Write-off of cost of sales deemed uncollectible	29	—	1,438
Cost of sales	174	1,087	5,154
Gross profit	$ 864	$ 6,680	$ 24,450

Group Purchasing Organization Fees

The Company sells to Group Purchasing Organization ("***GPO***") members who transact directly with the Company at GPO-agreed pricing. GPOs are funded by administrative fees that are paid by the Company. These fees are set as a percentage of the purchase volume, which is typically 3% of sales made to the GPO members. Fees paid to GPOs are presented as a reduction to net sales.

Cost of Sales

Cost of sales includes all costs directly related to bringing the Company's products to their final selling destination. Amounts include direct and indirect costs to manufacture products including raw materials, personnel costs and direct overhead expenses necessary to convert collected tissues into finished goods, product testing costs, quality assurance costs, facility costs associated with the Company's manufacturing and warehouse facilities, including depreciation, freight charges, costs to operate equipment and other shipping and handling costs for products shipped to customers.

The Company obtains raw material in the form of human placenta donations from participating mothers who give birth via scheduled Caesarean section.

Subsequent to the Transition Adjustment, the Company deferred cost of sales related to the Remaining Contracts. Deferred cost of sales were $0 and $0.2 million as of December 31, 2021 and 2020, respectively. These amounts were recorded within other current assets on the consolidated balance sheet.

Research and Development Costs

Research and development costs consist of direct and indirect costs associated with the development of the Company's technologies. These costs are expensed as incurred.

Advertising expense

Advertising expense consists primarily of print media promotional materials. Advertising costs are expensed as incurred. Advertising expense for each of the years ended December 31, 2021, 2020, and 2019 amounted to $0.1 million.

Income Taxes

Income tax provision (expense) benefit, deferred tax assets and liabilities, and liabilities for unrecognized tax benefits reflect management's best assessment of estimated current and future taxes to be paid. The Company is subject to income taxes in the United States and numerous states.

Deferred income taxes arise from temporary differences between the tax basis of assets and liabilities and their reported amounts in the financial statements, which will result in taxable or deductible amounts in the future. The Company recognizes deferred tax assets to the extent that it believes these assets are more likely than not to be realized. If the Company determines that it would be able to realize its deferred tax assets in the future in excess of their net recorded amount, the Company would make an adjustment to the deferred tax asset valuation allowance.

In evaluating the Company's ability to recover its deferred tax assets within the jurisdiction from which they arise, management considers all available positive and negative evidence, including scheduled reversals of deferred tax liabilities, projected future taxable income, tax-planning strategies, results of recent operations, and changes in tax laws. In projecting future taxable income, the Company begins with historical results and incorporates assumptions about the amount of future state and federal pretax operating income adjusted for items that do not have tax consequences. The assumptions about future taxable income require significant judgment and are consistent with the plans and estimates the Company uses to manage the underlying businesses. In evaluating the objective evidence that historical results provide, management considers three years of cumulative income (loss). The Company accounts for income taxes under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in the tax provision (benefit) in the period that includes the enactment date.

The calculation of income tax liabilities involves dealing with uncertainties in the application of complex tax laws and regulations both for U.S. federal income tax purposes and across numerous state jurisdictions. Accounting Standards Codification Topic 740, *Income Taxes*, states that a tax benefit from an uncertain tax position may be recognized when it is more likely than not that the position will be sustained upon examination, including resolutions of any related appeals or litigation processes, on the basis of the technical merits. The Company (1) records unrecognized tax benefits as liabilities in accordance with ASC 740 included within other liabilities on the consolidated balance sheets, and (2) adjusts these liabilities when management's judgment changes as a result of the evaluation of new information not previously available. Because of the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from management's current estimate of the unrecognized tax benefit liabilities. These differences will be reflected as increases or decreases to the deferred tax asset or income tax expense in the period in which new information is available.

The Company records uncertain tax positions in accordance with ASC 740 on the basis of a two-step process whereby (1) it determines whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position, and (2) for those tax positions that meet the more-likely-than-not recognition threshold, it recognizes the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority.

The Company recognizes interest and penalties related to unrecognized tax benefits within the income tax expense line in the consolidated statements of operations. Accrued interest and penalties, if any, are included within the related deferred tax liability line in the consolidated balance sheets and recorded as a component of income tax expense.

Share-based Compensation

The Company grants share-based awards to employees and members of the Company's Board of Directors (the "***Board***"). Awards to employees and the Board are generally made annually. Grants are issued outside of the annual cadence for certain new hires, promotions, and other events.

The amount of expense to be recognized is determined by the fair value of the award using inputs available as of the grant date. The fair value of restricted common stock is the value of common stock on the grant date. The fair value of stock option grants is estimated using the Black-Scholes option pricing model. Use of the valuation model requires management to make certain assumptions with respect to selected model inputs.

For awards with service-based vesting conditions only, the Company recognizes share-based compensation expense on a straight-line basis through the vesting date of the last tranche of the award. For awards with service- and performance-based vesting conditions, the Company recognizes stock-based compensation expense using the graded-vesting method, treating each tranche as if it were a separately-granted award and recognizing expense through the vesting date of each individual tranche. In each scenario, the Company recognizes share-based compensation expense based upon the probability that the award will ultimately vest. The Company recognizes the cumulative effect of changes in the probability outcomes in the period in which the changes occur.

Basic and Diluted Net Loss per Common Share

Basic net loss per common share is calculated as net loss available to common stockholders divided by weighted average common shares outstanding for the applicable period. Net loss available to common stockholders is calculated by adjusting net loss for periodic preferred accrued or deemed dividends. These amounts include (i) dividends accumulated on the Company's Series B Convertible Preferred Stock during the period, (ii) periodic amortization of the beneficial conversion feature, and (iii) periodic accretion of the increasing-rate dividend feature.

This amount is divided by the weighted average common shares outstanding during the period. Weighted average common shares outstanding is calculated as shares of the Company outstanding adjusted for the portion of the period for which they are outstanding. Unvested restricted stock awards are excluded from the calculation of weighted average common shares outstanding until they have vested.

Diluted net loss per common share adjusts basic net loss per common share for convertible securities, options, restricted stock unit awards, and other share-based payment awards which have yet to vest, to the extent such adjustments reduce basic net loss per common share.

The Company uses the if-converted method to calculate the dilutive effect of the Series B Convertible Preferred Stock, and other convertible securities, to the extent they are outstanding. The if-converted method assumes that convertible securities are converted at the later of the issuance date or the beginning of the period. If the hypothetical conversion of convertible securities, and the consequential avoidance of any deemed or accumulated preferred dividends, would decrease basic net loss per common share, these effects are incorporated in the calculation of diluted net loss per common share, adjusted for the proportion of the period the securities were outstanding.

The Company uses the treasury stock method to calculate the dilutive effect of outstanding options, restricted stock awards, and other share-based payments. The treasury stock method assumes that the proceeds from exercise are used to repurchase common shares at the weighted average market price during the period, increasing the denominator for the net effect of shares issued upon exercise less hypothetical shares repurchased.

If the dilutive effects noted above would cause diluted net loss per common share to exceed basic net loss per common share, such effects are not incorporated into the calculation, as they are deemed antidilutive. For all periods with a net loss available to common stockholders, any adjustment for potential common shares would be naturally anti-dilutive. Therefore, the weighted average shares outstanding used to calculate both basic and diluted net loss per common share are the same for periods with a net loss.

Fair Value of Financial Instruments and Fair Value Measurements

The respective carrying value of certain on-balance sheet financial instruments approximated their fair values due to the short-term nature and type of these instruments. These financial instruments include cash and cash equivalents, accounts receivable, notes receivable, and certain other financial assets and liabilities.

The Company measures certain non-financial assets at fair value on a non-recurring basis. These non-recurring valuations include evaluating assets such as long-lived assets, and non-amortizing intangible assets for impairment, allocating value to assets in an acquired asset group, and accounting for business combinations. The Company uses the fair value measurement framework to value these assets and reports these fair values in the periods in which they are recorded or written down.

Fair value financial instruments are recorded in accordance with the fair value measurement framework. The fair value measurement framework includes a fair value hierarchy that prioritizes observable and unobservable inputs used to measure fair values in their broad levels. These levels from highest to lowest priority are as follows:

- Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for identical assets or liabilities;
- Level 2: Quoted prices in active markets for similar assets or liabilities or observable prices that are based on inputs not quoted on active markets, but corroborated by market data.
- Level 3: Unobservable inputs or valuation techniques that are used when little or no market data is available.

The determination of fair value and the assessment of a measurement's placement within the hierarchy require judgment. Level 3 valuations often involve a higher degree of judgment and complexity. Level 3 valuations may require the use of various valuation methodologies which incorporate unobservable inputs, management estimates, and assumptions. Management's

assumptions could vary depending on the asset or liability valued and the valuation method used. Such assumptions could include: estimates of prices, earnings, costs, actions of market participants, market factors, or the weighting of various valuation methods. The Company may also engage external advisors to assist it in determining fair value, as appropriate.

Although the Company believes that the recorded fair value of its financial instruments is appropriate, these fair values may not be indicative of net realizable value or reflective of future fair values.

Recently Adopted Accounting Pronouncements

In August 2020, the FASB issued Accounting Standards Update ("***ASU***") 2020-06, "*Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*," which simplifies and clarifies certain calculation and presentation matters related to convertible equity and debt instruments. Specifically, this ASU simplifies the accounting for such instruments by removing requirements to separately account for conversion features as a derivative under ASC Topic 815 and removing the requirement to account for beneficial conversion features on such instruments. Accounting Standards Update 2020-06 also provides clearer guidance surrounding disclosure of such instruments and provides specific guidance for how such instruments are to be incorporated in the calculation of Diluted EPS. The guidance under ASU 2020-06 is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted, but no earlier than fiscal years beginning after December 15, 2020. The Company adopted this standard on January 1, 2021 on a modified retrospective basis. There was no impact upon adoption.

Recently Issued Accounting Pronouncements Not Yet Adopted

In March 2020, the FASB issued ASU 2020-04, "*Reference Rate Reform (Topic 848)*", which provides temporary, optional expedients and exceptions to accounting guidance for certain contract modifications and hedging arrangements to ease financial reporting burdens as a result of market transitions from the London Interbank Offered Rate ("***LIBOR***") to alternative reference rates. The guidance is available for prospective application upon its issuance and can generally be applied to contract modifications and hedging relationships entered into beginning March 12, 2020 through December 31, 2022. As of December 31, 2021, the Company has long-term debt outstanding which carries an interest rate tied to LIBOR, the agreement for which contemplates an interest rate alternative in the event that LIBOR is unavailable. The Company is evaluating the possibility of adoption and the related impact on its financial statements. If adopted, the Company does not expect the provisions of this ASU to have a material impact on its consolidated financial statements.

In November 2021, the FASB issued ASU 2021-10, "*Government Assistance (Topic 832)"*, which provides disclosure requirements regarding government grants and contributions. The ASU requires disclosure of the nature of transactions and related accounting policies used to account for transactions, the effect, including amounts, of government assistance on individual line items on the financial statements, and significant terms and conditions of the transactions, including commitments and contingencies. This ASU is effective for fiscal years beginning after December 15, 2021. The Company does not expect the provisions of this ASU to have a material impact on its consolidated financial statements.

All other ASUs issued and not yet effective as of December 31, 2021, and through the date of this report, were assessed and determined to be either not applicable or are expected to have minimal impact on the Company's current or future financial position or results of operations.

3. Accounts Receivable, Net

Accounts receivable, net, consists of the following (in thousands):

	December 31,	
	2021	2020
Accounts receivable, gross	$ 41,540	$ 36,160
Allowance for doubtful accounts	(1,187)	(737)
Accounts receivable, net	$ 40,353	$ 35,423

Bad debt expense for the years ended December 31, 2021, 2020, and 2019 was $0.8 million, $0.7 million, and $0, respectively.

4. Inventory

Inventory consists of the following (in thousands):

	December 31,	
	2021	2020
Raw materials	$ 364	$ 314
Work in process	6,112	4,316
Finished goods	4,913	5,731
Inventory	$ 11,389	$ 10,361

Write-downs recorded against the inventory balance as of December 31, 2020, which were presented separately in previously-issued financial statements, have been reclassified as reductions to raw materials, work in process, and finished goods.

As a result of the conclusion of the FDA's period of enforcement discretion on May 31, 2021, the Company wrote down $1.0 million of its Section 351 product inventory and $0.7 million related to discontinued product during the year ended December 31, 2021.

Consignment inventory, included as a component of finished goods in the table above, was $2.6 million and $3.2 million as of December 31, 2021 and 2020, respectively.

5. Property and Equipment, Net

Property and equipment consist of the following (in thousands):

	December 31,	
	2021	2020
Leasehold improvements	$ 9,052	$ 6,010
Laboratory and clean room equipment	16,567	15,524
Furniture and office equipment	14,975	15,295
Construction in progress	397	3,321
Asset retirement cost	863	785
Finance lease right of use assets	189	—
Property and equipment, gross	42,043	40,935
Less accumulated depreciation and amortization	(32,878)	(29,498)
Property and equipment, net of accumulated depreciation	$ 9,165	$ 11,437

Depreciation expense for each of the years ended December 31, 2021, 2020, and 2019 was recorded in certain captions of the consolidated statements of operations for those periods in the amounts shown in the table below (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Cost of sales	$ 1,787	$ 2,022	$ 1,965
Selling, general and administrative expenses	2,278	3,416	4,223
Research and development expenses	298	344	358
Total	$ 4,363	$ 5,782	$ 6,546

6. Leases

The Company has leases for corporate offices, manufacturing facilities, vehicles, and certain equipment. Such leases do not require any contingent rental payments, impose any financial restrictions, or contain any residual value guarantees.

The Company subleases one of its leased industrial warehouse spaces. The sublease income from the facility offsets the lease expense associated with the facility. Sublease income for the facility was $0.1 million, $0.1 million, and $0 for the years ended December 31, 2021, 2020, and 2019, respectively, and is presented as a reduction to selling, general, and administrative expense on the consolidated statements of operations in those periods.

Supplemental balance sheet information related to the Company's leases, including the financial statement caption in which the amounts are presented, is as follows (amounts in thousands, except lease term and discount rate):

	Operating Leases		Finance Leases	
	December 31,		December 31,	
	2021	2020	2021	2020
Assets				
Right of use asset	$ 4,696	$ 3,623	$ —	$ —
Property and equipment, net	—	—	145	—
Total assets	$ 4,696	$ 3,623	$ 145	$ —
Liabilities				
Other current liabilities	$ 1,203	$ 1,176	$ 45	$ —
Other liabilities	3,812	2,960	106	—
Total liabilities	$ 5,015	$ 4,136	$ 151	$ —
Weighted-average remaining lease term (years)	4.0	4.4	3.1	
Weighted-average discount rate	8.4 %	10.0 %	8.3 %	

Information related to lease costs are as follows (amounts in thousands):

	Year Ended December 31,		
	2021	2020	2019
Operating lease cost	$ 1,327	$ 1,392	$ 1,469
Depreciation of finance lease ROU assets	43	—	—
Interest expense on finance lease liabilities	13	—	—

Maturities of lease liabilities are as follows (amounts in thousands):

Year Ending December 31,	Operating Leases	Finance Leases	Total
2022	$ 1,566	$ 55	$ 1,621
2023	1,605	55	1,660
2024	1,569	55	1,624
2025	441	5	446
2026	338	—	338
Thereafter	367	—	367
Total lease payments	5,886	170	6,056
Less: imputed interest	(871)	(19)	(890)
Lease liability	$ 5,015	$ 151	$ 5,166

Certain lease agreements require the Company to return designated areas of leased space to its original condition upon termination of the lease agreement, for which the Company records an asset retirement obligation and a corresponding capital

asset in an amount equal to the estimated fair value of the obligation. In subsequent periods, the asset retirement obligation is accreted for the change in its present value and the capitalized asset is depreciated, both over the term of the associated lease agreement. Asset retirement obligations of $1.0 million and $0.8 million as of December 31, 2021 and 2020, respectively, are included in other liabilities in the consolidated balance sheets.

7. Goodwill and Intangible Assets

Goodwill

For the impairment test performed October 1, 2021, the Company performed a qualitative assessment to determine the existence of impairment. The qualitative assessment concluded that it was not more likely than not that goodwill was impaired. The Company did not proceed to the quantitative assessment, and no impairment was recorded for the year ended December 31, 2021.

For the impairment tests performed on September 30, 2020 and October 1, 2020, the Company performed a quantitative analysis to determine the existence and extent of impairment. The quantitative analysis concluded that the fair value of the Company's reporting unit exceeded its carrying value. As a result of these assessments, the Company concluded that there was no impairment. Accordingly, no impairment was recorded for the year ended December 31, 2020.

The following table indicates the changes in the carrying amount of goodwill for 2021 and 2020 (in thousands):

Balance as of January 1, 2020	$ 19,976
Activity	—
Balance as of December 31, 2020	19,976
Activity	—
Balance as of December 31, 2021	$ 19,976

Intangible Assets

Intangible assets are summarized as follows (in thousands):

	December 31, 2021			December 31, 2020		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Amortized intangible assets						
Patents and know-how	$ 9,578	$ (6,408)	$ 3,170	$ 9,510	$ (5,730)	$ 3,780
Licenses	—	—	—	1,414	(1,334)	80
Customer and supplier relationships	—	—	—	241	(172)	69
Non-compete agreements	—	—	—	120	(98)	22
Total amortized intangible assets	$ 9,578	$ (6,408)	$ 3,170	$ 11,285	$ (7,334)	$ 3,951
Unamortized intangible assets						
Tradenames and trademarks	$ 1,008		$ 1,008	$ 1,008		$ 1,008
Patents in process	1,205		1,205	1,045		1,045
Total intangible assets	$ 11,791		$ 5,383	$ 13,338		$ 6,004

Amortization expense and impairment expense for the years ended December 31, 2021, 2020, and 2019, is summarized in the table below (amounts in thousands):

	Year ended December 31,		
	2021	2020	2019
Amortization of intangible assets	$ 820	$ 1,073	$ 1,039
Impairment of intangible assets	53	1,027	1,258

Impairment of intangible assets in 2021 related to supplier relationship assets that were determined to be unrecoverable due to attrition. Impairment of intangible assets in 2020 related to customer relationship assets that were determined to be unrecoverable due to lower than expected margins. Impairment of intangible assets in 2019 were related to the abandonment of patents in process and customer relationship assets.

Expected future amortization of intangible assets as of December 31, 2021, is as follows (in thousands):

Year Ending December 31,	Estimated Amortization Expense
2022	$ 679
2023	679
2024	679
2025	284
2026	129
Thereafter	720
Total amortization expense	$ 3,170

8. Accrued Expenses

Accrued expenses consist of the following (in thousands):

	December 31,	
	2021	2020
Legal and settlement costs	$ 2,806	$ 24,797
External commissions	2,630	2,141
Estimated returns	788	688
Accrued clinical trials	694	651
Accrued rebates	1,343	886
Accrued GPO fees	559	554
Other	992	743
Total	$ 9,812	$ 30,460

The Company's accrual for settlement costs, which was presented separately in previously-issued financial statements, is included as part of legal and settlement costs in the table above. Accrued settlement costs were $10.0 million as of December 31, 2020.

9. Long Term Debt

Hayfin Loan Agreement

On June 30, 2020, the Company entered into a Loan Agreement with, among others, Hayfin Services, LLP, ("***Hayfin***") an affiliate of Hayfin Capital Management LLP (the "***Hayfin Loan Agreement***"), which was funded on July 2, 2020 (the "***Closing Date***") and provided the Company with a senior secured term loan in an aggregate amount of $50.0 million (the "***Term Loan***"). The Term Loan matures on June 30, 2025 (the "***Maturity Date***"). Interest is payable quarterly on the Term Loan for the principal balance outstanding through the Maturity Date. No principal payments are due and payable until the Maturity Date.

The Hayfin Loan Agreement also provided the Company with an option to draw on an additional delayed draw term loan (the "***DD TL***", collectively with the Term Loan, the "***Credit Facilities***") in the form of a committed but undrawn $25.0 million

facility until June 30, 2021. The Company did not exercise the option. On February 28, 2022 (the "***Amendment Date***"), the Company executed an Amendment to the Hayfin Loan Agreement (the "***Amendment***").

The interest rate applicable to the Term Loan is equal to LIBOR (subject to a floor of 1.5%) plus a margin (the "***Margin***"), as determined below. If LIBOR is unavailable, the loan will carry interest at the greatest of the Prime Rate, the Federal Funds Rate plus 0.5% per annum, and 2.5%, plus the Margin.

Prior to the Amendment Date, the Margin on the Term Loan was calculated based on the Company's Total Net Leverage Ratio (as defined in the Hayfin Loan Agreement) for the quarter, as follows:

- 6.75% per annum if the Total Net Leverage Ratio is greater than 2.0x,
- 6.5% per annum if the Total Net Leverage Ratio is less than 2.0x but greater than or equal to 1.0x, or
- 6.0% per annum if the Total Net Leverage Ratio is less than 1.0x.

After the Amendment Date, the Margin is fixed at 6.75% through the Maturity Date.

An additional 3.0% margin is applied to the interest rate in the event of default as defined by the Hayfin Loan Agreement. Both at issuance and as of December 31, 2021, the Term Loan carried an interest rate of 8.3%.

The Term Loan contained financial covenants requiring the Company, on a consolidated basis, to maintain the following through the Amendment Date:

- Maximum Total Net Leverage Ratio of 4.0x for the remaining life of the loan, required to be calculated on a quarterly basis,
- Minimum Liquidity (as defined in the Hayfin Loan Agreement) of $10 million, an at-all-times financial covenant, tested monthly.

The Company is in compliance with all debt covenants as of December 31, 2021.

The Amendment changed these financial covenants and requires the Company, on a consolidated basis, to maintain the following beginning on the Amendment Date:

- Minimum Consolidated Total Net Sales (as defined in the Amendment) of varying amounts, required to be calculated on a quarterly basis,
- Minimum Liquidity of $20 million, an at-all-times financial covenant, tested monthly.

The Hayfin Loan Agreement, as amended, also specifies that any prepayment of the loan, voluntary or mandatory, will subject the Company to a prepayment premium applicable as of the date of the prepayment:

- On or before July 2, 2023: 2% of the principal balance repaid.
- After July 2, 2023, but on or before July 2, 2024: 1% of the principal balance repaid.
- After July 2, 2024: no premium.

The Hayfin Loan Agreement also includes events of default customary for facilities of this type, and upon the occurrence of such events of default, subject to customary cure rights, the Term Loan may be accelerated or the lenders' commitments terminated. The mandatory prepayments are also required in the event of a change in control (as defined in the Hayfin Loan Agreement), incurring other indebtedness, certain proceeds from disposal of assets and an insured casualty event.

Beginning with the fiscal year ending December 31, 2021, the Company is required to prepay the outstanding loans based on the percentage of Excess Cash Flow (as defined in the Hayfin Loan Agreement), if Excess Cash Flow is generated, with the percentage determined based on the Total Net Leverage thresholds. The Company is not required to make any payments under this provision as of December 31, 2021.

Hayfin maintains a first-priority security interest in substantially all of the Company's assets.

A breach of a financial covenant in the Hayfin Loan Agreement, if uncured or unable to be cured, would likely result in an event of default that could trigger the lender's remedies, including acceleration of the entire principal balance of the loan as well as any applicable prepayment premiums. Future compliance with the financial covenants, as amended, requires continuing growth in net sales consistent with the Company's business strategy and plans. Our business is subject to inherent uncertainties that could impact the Company's net sales growth, including, but not limited to, the regulatory pathway of the Company's cord-derived products. While we currently have sufficient cash to repay all such amounts in an event of default, we may require alternative financing to cover other obligations. Even if alternative financing were available in an event of default under the Hayfin Loan Agreement, it might be on unfavorable terms, and the interest rate charged on any new borrowings may be substantially higher than the interest rate under the Hayfin Loan Agreement, thus adversely affecting our future cash flows, liquidity, and results of operations.

Original issue discount and deferred financing costs were allocated between the sale of the Series B Convertible Preferred Stock (which occurred simultaneously with the Hayfin Term Loan, collectively the "***Financing Transactions***") and the Term Loan on the basis of the relative fair values of the transactions. The costs allocated to the Term Loan were further allocated between the Term Loan and the DD TL on the basis of the maximum potential principal outstanding between the Credit Facilities. The allocation of the deferred financing costs and original issue discount between Term Loan and the DD TL on July 2, 2020 was as follows (amounts in thousands):

	July 2, 2020		
	Term Loan	DD TL	Total
	Long term debt	*Other current assets*	
Original issue discount	$ 333	$ 167	$ 500
Deferred financing costs	2,169	1,084	3,253

Deferred financing costs and original issue discount allocated to the Term Loan are amortized using the effective interest method through the Maturity Date. The amortization of such amounts is presented as part of interest expense, net on the consolidated statement of operations for the years ended December 31, 2021 and 2020 .

Deferred financing costs and original issue discount associated with the DD TL were amortized using the straight-line method through the expiration of the DD TL commitment term on June 30, 2021. Amortization of these amounts are presented as part of interest expense, net on the consolidated statements of operations. Unamortized deferred financing costs and original issue discount associated with the DD TL are presented as other current assets on the consolidated balance sheet as of December 31, 2020.

The balances of the Term Loan as of December 31, 2021 and 2020 were as follows (amounts in thousands):

	December 31,	
	2021	2020
Outstanding principal	$ 50,000	$ 50,000
Deferred financing costs	(1,624)	(1,996)
Original issue discount	(249)	(307)
Long term debt, net	$ 48,127	$ 47,697

Components of interest expense related to the Term Loan, included in interest expense, net in the consolidated statements of operations, was as follows (amounts in thousands):

	Year Ended December 31,	
	2021	2020
Stated interest	$ 4,182	$ 2,085
Amortization of deferred financing costs	372	173
Accretion of original issue discount	58	26
Interest expense	$ 4,612	$ 2,284

Interest expense related to the DD TL, included in interest expense, net in the consolidated statements of operations, was as follows (amounts in thousands):

	Year Ended December 31,	
	2021	2020
Commitment fee	$ 126	$ 128
Amortization of deferred financing costs	542	542
Accretion of original issue discount	83	83
Interest expense	$ 751	$ 753

Scheduled principal payments on the Term Loan as of December 31, 2021 are as follows:

Year ending December 31,	Principal
2022	$ —
2023	—
2024	—
2025	50,000
2026	—
Thereafter	—
Outstanding principal	$ 50,000

The DD TL was not funded as of December 31, 2021. Consequently, no principal payments are owed.

As of December 31, 2021, the fair value of the Term Loan was $50.7 million. This valuation was calculated based on a series of Level 2 and Level 3 inputs, including a discount rate based on the credit risk spread of debt instruments of similar risk character in reference to U.S. Treasury instruments with similar maturities, with an incremental risk premium for risk factors specific to the Company. The remaining cash flows associated with the Term Loan were discounted to December 31, 2021 using this discount rate to derive the fair value.

BT Term Loan

On June 10, 2019, the Company entered into a loan agreement (the "***BT Loan Agreement***") with Blue Torch Finance LLC ("***Blue Torch***"), as administrative agent and collateral agent, to borrow funds with a face value of $75.0 million (the "***BT Term Loan***"), of which the full amount was borrowed and funded. The proceeds from the BT Term Loan were used (i) for working capital and general corporate purposes and (ii) to pay transaction fees, costs and expenses incurred in connection with the BT Term Loan and the related transactions. The BT Term Loan would have matured on June 20, 2022 and was repayable in quarterly installments of $0.9 million, with the balance due on June 20, 2022. Blue Torch maintained a first-priority security interest in substantially all the Company's assets. The BT Term Loan was issued net of the original issue discount of $2.3 million. The Company incurred $6.7 million of deferred financing costs.

On April 22, 2020, the Company amended the BT Loan Agreement with Blue Torch. The amendment provided for an increase in the maximum Total Leverage Ratio, which was a quarterly test, for the remainder of 2020, and also provided for a reduction in the minimum Liquidity requirement from April 2020 through November 2020. In connection with the amendment, the Company agreed to pay a one-time fee of approximately $0.7 million, added to the principal balance, and a 1 percentage point increase in the interest rate to LIBOR plus 9%.

On July 2, 2020, a portion of the proceeds from the Financing Transactions was used to repay the outstanding balance of principal, accrued but unpaid interest, and prepayment premium under the BT Loan Agreement. In connection with the repayment of the BT Term Loan, the Company terminated the BT Loan Agreement. The Company has no continuing obligations related to the BT Term Loan as of December 31, 2021.

The Company recorded a loss on extinguishment of debt of $8.2 million during the year ended December 31, 2020. The composition of the loss on extinguishment of debt was as follows (amounts in thousands):

	July 2, 2020
Unamortized deferred financing costs	$ 4,528
Unamortized original issue discount	1,538
Unamortized amendment fee	671
Prepayment premium	1,439
Other fees	25
Loss on extinguishment of debt	$ 8,201

Interest expense related to the BT Term Loan, included in interest (expense) income, net in the consolidated statements of operations was as follows (amounts in thousands):

	Year ended December 31,	
	2020	2019
Interest on principal balance	$ 3,773	$ 4,331
Accretion of original issue discount	354	360
Accretion of amendment fee	53	—
Amortization of deferred financing costs	1,051	1,071
Total BT Term Loan interest expense	$ 5,231	$ 5,762

Paycheck Protection Program Loan

The Company applied for and, on April 24, 2020, received proceeds of $10.0 million in the form of a loan under the Paycheck Protection Program (the "***PPP Loan***"). On May 11, 2020, the Company repaid the PPP Loan in full. There are no continuing obligations under the PPP Loan as of December 31, 2021.

10. Basic and Diluted Net Loss Per Common Share

Net loss per common share is calculated using two methods: basic and diluted.

Basic Net Loss Per Common Share

The following table provides a reconciliation of net loss to net loss available to common shareholders and calculation of basic net loss per common share for each of the years ended December 31, 2021, 2020, and 2019 (amounts in thousands, except share and per-share amounts):

	Year ended December 31,		
	2021	2020	2019
Net loss	$ (10,285)	$ (49,284)	$ (25,580)
Adjustments to reconcile to net loss available to common stockholders:			
Accumulated dividend on convertible preferred stock Series B	5,210	2,016	—
Amortization of beneficial conversion feature	—	31,110	—
Accretion of increasing-rate dividend feature	926	918	—
Total adjustments	6,136	34,044	—
Net loss available to common stockholders	$ (16,421)	$ (83,328)	$ (25,580)
Weighted average common shares outstanding	110,353,406	108,257,112	106,946,384
Basic net loss per common share	$ (0.15)	$ (0.77)	$ (0.24)

Diluted Net Loss Per Common Share

The following table sets forth the computation of basic and diluted net loss per common share (in thousands, except share and per-share amounts):

	Year ended December 31,		
	2021	2020	2019
Net loss available to common stockholders	$ (16,421)	$ (83,328)	$ (25,580)
Dividends on convertible preferred stock Series B	6,136	34,044	—
Numerator - net loss available to common stockholders adjusted for hypothetical conversion of Series B Convertible Preferred Stock (a)	$ (16,421)	$ (83,328)	$ (25,580)
Denominator - weighted average common shares outstanding adjusted for potential common shares (b)	110,353,406	108,257,112	106,946,384
Diluted net loss per common share	$ (0.15)	$ (0.77)	$ (0.24)

(a) Diluted net loss per common share is not adjusted for dividends on the Series B convertible preferred stock in 2021 or 2020 because the effect of a hypothetical conversion was determined to be anti-dilutive.

(b) Weighted average common shares outstanding for the calculation of diluted net loss per common share does not include the following adjustments for potential common shares below because their effects were determined to be anti-dilutive for the periods presented:

	Year ended December 31,		
	2021	2020	2019
Convertible preferred stock Series B	26,497,570	12,987,013	—
Restricted stock awards	1,121,019	1,299,770	1,157,563
Outstanding stock options	771,409	752,499	978,243
Restricted stock unit awards	1,393,910	616,141	—
Performance stock unit awards	17,928	31,621	—
Potential common shares	29,801,836	15,687,044	2,135,806

11. Equity

Convertible Preferred Stock Series B

The Company's Convertible preferred stock Series B (the "***Series B Preferred Stock***") are convertible, cumulative securities which rank senior to the Company's Series A Junior Participating Preferred Stock and the Company's common stock. The Series B Preferred Stock accumulated a 4.0% cumulative dividend per annum through June 30, 2021, and accumulates a 6.0% cumulative dividend per annum thereafter. Dividends are declared at the sole discretion of the Board. Dividends are paid at the end of each quarter based on dividend amounts that accumulate beginning on the last payment date through the day prior to the end of each quarter. In lieu of paying a dividend, the Company may elect to accrue the dividend owed to holders of the Series B Preferred Stock. Accrued dividend balances accumulate dividends at the prevailing dividend rate for each dividend period for which they are outstanding.

Each share of Series B Preferred Stock is convertible into Company's common stock at any time at the option of the Holder. Shares are converted based on the liquidation preference of $1,000 per share (the "***Liquidation Preference***") plus any accrued or accumulated dividends through the date of the conversion at a conversion price of $3.85 per common share. The Series B Preferred Stock, including any accumulated and unpaid dividends, automatically converts into common stock at any time after July 2, 2023, provided that the common stock has traded at $7.70 per common share or more (i) for 20 out of 30 consecutive trading days and (ii) on such date of conversion.

The holders of the Series B Preferred Stock, voting as a class, are entitled to appoint two members to the board of directors. The Holders vote are entitled to vote on all matters on an as-converted basis as a single class with the common stock assuming a conversion price of $5.25 per share; provided that the votes represented by the Series B Preferred Stock cannot exceed 19.9% of the total voting stock of the Company.

Holders of the Series B Preferred Stock are also entitled to the Liquidation Preference and all accumulated and unpaid dividends in the event of a liquidation, dissolution, or winding-up of the Company.

If the Company undergoes a change of control (as defined), the Company will have the option to repurchase some or all of the then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference plus any accumulated and unpaid dividends, subject to the rights of the holders in connection with such change in control. If the

Company does not exercise such repurchase right, the Holders will have the option to (1) require the Company to repurchase any or all of its then-outstanding shares of Series B Preferred Stock for cash in an amount equal to the liquidation preference or (2) convert the Series B Preferred Stock, including accumulated and unpaid dividends into common stock and receive their pro rata consideration thereunder.

The Company evaluated its Series B Preferred Stock and determined that it was considered an equity host under ASC 815, *Derivatives and Hedging*. As a result of the Company's conclusion that the Series B Preferred Stock represented an equity host, the conversion feature of all Series B Preferred Stock was considered to be clearly and closely related to the associated Series B Preferred Stock host instrument. Accordingly, the conversion feature of all Series B Preferred Stock was not considered an embedded derivative that required bifurcation. At the time of the issuance of the Series B Preferred Stock, the Company's common stock, into which the Company's Series B Preferred Stock is convertible, had an estimated fair value exceeding the effective conversion price of the Series B Preferred Stock, giving rise to a beneficial conversion feature in the amount of $31.1 million. This amount was immediately recognized as a deemed dividend on the commitment date since there is no stated redemption date and the Series B Preferred Stock is immediately convertible.

The Series B Preferred Stock instrument contains an increasing-rate cumulative dividend feature. The Company determined the present value of the difference between the (1) dividends that will be payable in the period preceding commencement of the perpetual dividend and (2) the perpetual dividend amount for a corresponding number of periods in order to ascribe a fair value to this feature. These amounts were discounted to present value using a market rate for dividend yield as of the date on which the Series B Preferred Stock was issued. The Company calculated the amount of the increasing-rate dividend feature as $1.8 million. This amount is amortized as a deemed dividend to preferred shareholders using the effective interest method through June 30, 2021. During each of the years ended December 31, 2021 and 2020, the Company recognized $0.9 million of deemed dividends related to the amortization of the increasing-rate dividend feature.

The below table illustrates changes in the Company's balance of the Series B Preferred Stock for the years ended December 31, 2021 and 2020 (in thousands, except per share amounts):

	Convertible preferred stock Series B	
	Shares	Amount
Balance at December 31, 2019	—	$ —
Issuance of Series B Preferred Stock	100,000	59,540
Deemed dividends	—	32,028
Balance at December 31, 2020	100,000	$ 91,568
Deemed dividends	—	926
Balance at December 31, 2021	100,000	$ 92,494

The Company has not declared or paid any dividends on the Series B Preferred Stock since issuance. Dividends in arrears as of December 31, 2021 were $7.2 million. As this amount has not been declared, the Company has not recorded this amount on its consolidated balance sheet as of December 31, 2021.

As of December 31, 2021, based on accumulated dividends as of that date, the Series B Preferred Stock was convertible into an aggregate of 27,850,916 shares of the Company's common stock.

Stock Incentive Plans

The Company has two share-based compensation plans which provide for the granting of equity awards, including qualified incentive and non-qualified stock options and restricted stock awards: the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan Amended and Restated through October 2, 2020 (the "***2016 Plan***"), which was approved by shareholders on May 18, 2016, and the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (the "***Prior Incentive Plan***"). During the years ended December 31, 2021, 2020, and 2019 the Company used only the 2016 Plan to make grants.

The 2016 Plan permits the grant of equity awards to the Company's employees, directors, consultants and advisors for up to 8,400,000 shares of the Company's common stock plus (i) the number of shares of the Company's common stock that remain available for issuance under the Prior Incentive Plan, and (ii) the number of shares that are represented by outstanding awards that later become available because of the expiration or forfeiture of the award without the issuance of the underlying shares. The awards are subject to a vesting schedule as set forth in each individual agreement.

Stock Options

Option awards are generally granted with an exercise price equal to the market price of the Company's stock at the date of grant. Option awards generally vest based on three years of continuous service and have 10-year contractual terms. Certain option and restricted stock awards provide for accelerated vesting if there is a change in control or upon death or disability.

A summary of stock option activity for the year ended December 31, 2021, and changes during the year then ended are presented below:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Outstanding at January 1, 2021	2,025,683	$ 4.62		
Granted	—	—		
Exercised	(529,171)	3.43		
Unvested options forfeited	—	—		
Vested options expired	(51,667)	1.23		
Outstanding at December 31, 2021	1,444,845	5.18	1.51	1,960,006
Exercisable at December 31, 2021	1,444,845	$ 5.18	1.51	$ 1,960,006

The intrinsic values of the options exercised during the years ended December 31, 2021, 2020 and 2019 were $3.3 million, $1.9 million, and $0.6 million, respectively. Cash received from option exercise under all share-based payment arrangements for the years ended December 31, 2021, 2020 and 2019 was $1.4 million, $0.4 million, and $0.1 million, respectively. The actual tax benefit for the tax deductions from option exercise of the share-based payment arrangements totaled $2.0 million, $1.6 million, and $0.2 million, respectively, for the years ended December 31, 2021, 2020 and 2019. The Company has a policy of using its available repurchased treasury stock to satisfy option exercises.

The fair value of options vested during the years ended December 31, 2021, 2020 and 2019 were $0, $0, and $1.4 million, respectively. There were no options granted during the years ended December 31, 2021, 2020 and 2019 and there was no unrecognized compensation expense at December 31, 2021.

On June 13, 2019, our Board of Directors (prior to the election or appointment of any of the Company's current non-executive Board members), in its capacity as Administrator of the Prior Incentive Plan, extended the contractual life of 612,000 fully vested share options held by 7 members of the Board and 278,916 fully vested share options held by a former employee. As a result of that modification, the Company recognized incremental share-based compensation expense of $0.4 million during the year ended December 31, 2019.

The incremental fair value of the modified options was estimated on the modification date using the Black-Scholes option-pricing model that uses assumptions for expected volatility, expected dividends, expected term, and the risk-free interest rate. Expected volatilities were the blend of the Company's historical stock price volatility as well as that of market comparable publicly traded peer companies and other factors estimated over the expected term of the options. The term of the modified options was the remaining time until the end of the contractual maturity of ten years. The risk-free rate was based on the U.S. Treasury yield curve in effect at the time of modification for the period of the expected term.

2019 Option Modification	
Expected volatility	65% - 95%
Expected life (in years)	0.28 - 5.12
Expected dividend yield	0
Risk-free interest rate	1.56% - 2.02%

Restricted Stock Awards

The Company has issued several classes of restricted stock awards to employees: restricted stock ("***RSAs***"), restricted stock unit awards ("***RSUs***"), and performance stock unit awards ("***PSUs***"). The following is summary information for restricted stock awards for the year ended December 31, 2021. Restricted stock and RSUs vest over a one- to three-year period in equal annual increments and require continuous service. Performance stock unit awards vest based on the achievement of specific performance targets subject to agreements with employees and require continuous service through the specified event.

As of December 31, 2021, there was approximately $23.9 million of total unrecognized stock-based compensation related to unvested restricted stock awards. That expense is expected to be recognized over a weighted-average period of 2.01 years, which approximates the remaining vesting period of these grants. All RSAs noted below as unvested are considered issued and outstanding at December 31, 2021, while unvested RSUs and PSUs are not considered issued and outstanding as of December 31, 2021.

	RSA		RSU		PSU	
	Number of Shares	Weighted-Average Grant Date Fair Value	Number of Shares	Weighted-Average Grant Date Fair Value	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested at January 1, 2021	2,175,859	$ 4.78	2,325,273	$ 5.90	35,212	$ 7.10
Granted	—	—	3,020,935	10.07	—	—
Vested	(1,225,606)	5.24	(775,193)	5.89	(35,212)	7.10
Forfeited	(73,056)	3.34	(342,096)	8.84	—	—
Unvested at December 31, 2021	877,197	$ 4.26	4,228,919	$ 8.64	—	$ —

The total fair value of restricted stock awards vested during the years ended December 31, 2021, 2020 and 2019, was $20.1 million, $10.1 million, and $5.2 million, respectively.

During the year ended December 31, 2019, the Company granted a fixed-dollar value RSU award to the members of its Board in the amount of $1.6 million. The RSU awards vested at the date of the 2019 Annual Meeting and were settled in common stock with the number of shares of common stock based on the closing price of the Company's share price on August 5, 2020, a date thirty days after the Company became current on its SEC filings. Upon this event, these awards were modified from a fixed dollar-amount of awards to be settled in a variable number of shares to a fixed number of shares based on the closing price of the Company's common stock on August 5, 2020. This event constituted a modification of the awards from liability-based awards to equity-based awards. This event did not change the total amount of expense recognized. Prior to August 5, 2020, the Company recorded $1.3 million of expense, of which $0.9 million and $0.4 million were recognized during the years ended December 31, 2020 and 2019, respectively. The Company reclassified $1.3 million of recorded liability to additional paid-in capital to reflect this modification on August 5, 2020. Subsequent to the modification, $0.3 million of expense was recognized as additional paid-in capital during the year ended December 31, 2020.

For the years ended December 31, 2021, 2020, and 2019 the Company recognized share-based compensation as follows (in thousands):

	Years Ended December 31,		
	2021	2020	2019
Cost of sales	$ 813	$ 520	$ 477
Research and development	836	288	265
Selling, general and administrative	13,108	14,549	11,322
Total share-based compensation	14,757	15,357	12,064
Income tax benefit, before consideration of valuation allowance	(3,649)	(3,792)	(3,081)
Total share-based compensation, net of tax benefit	$ 11,108	$ 11,565	$ 8,983

Treasury Stock

Repurchases of shares of Common Stock in connection with the satisfaction of employee tax withholding obligations upon vesting of restricted stock and exercise of stock options for the years ended December 31, 2021, 2020, and 2019 were 469,239, 435,492, and 429,918, respectively, for an aggregate purchase price of $4.8 million, $2.3 million, and $1.5 million, respectively.

During 2020 and 2021, certain stock option holders elected to return restricted shares to the Company as consideration to exercise stock options. In total, 41,810 and 148,972 shares were returned to the Company during the year ended December 31, 2021 and 2020, respectively, for an aggregate fair value of $0.4 million and $0.9 million, respectively.

12. Income Taxes

On March 27, 2020, the U.S. government enacted the CARES Act which, among other changes, eliminated the taxable income limit for certain net operating losses ("***NOL***"), allowed businesses to carry back NOLs arising in 2018, 2019, and 2020 to the five prior years, and provided a payment delay of employer payroll taxes during 2020 after the date of enactment. These provisions allowed the Company to carry back federal tax losses related to 2018 and 2019. The Company recorded net tax receivable totaling $11.3 million in 2020 related to these provisions, of which $1.2 million had been collected as of December 31, 2020, and another $9.2 million was collected during the year ended December 31, 2021. The remaining $0.9 million is reflected in income tax receivable on the consolidated balance sheet as of December 31, 2021.

The Company has deferred payment on $2.2 million in employer taxes, $1.1 million of which was paid in January 2022 and the remainder is due December 2022. The $2.2 million is included as part of accrued compensation on the consolidated balance sheet as of December 31, 2021.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

Significant components of the Company's deferred tax assets and liabilities are as follows (in thousands):

	December 31,	
	2021	2020
Deferred Tax Assets:		
Net operating loss	$ 23,333	$ 17,010
Research and development and other tax credits	6,297	5,920
Share-based compensation	4,220	3,259
Interest limitation carryforward	3,970	2,992
Accrued expenses	3,385	2,918
Accrued settlement costs	235	2,464
Bad debts	601	2,138
Lease obligation	1,277	1,021
Sales return and allowances	195	170
Other	1,115	1,075
Deferred Tax Liabilities:		
Prepaid expenses	(1,337)	(1,170)
Property and equipment	(705)	(1,073)
Right of use asset	(1,197)	(895)
Intangible assets	(263)	(160)
Deferred costs of goods sold	—	(43)
Net Deferred Tax Assets	41,126	35,626
Less: Valuation allowance	(41,126)	(35,626)
Net Deferred Tax Assets after Valuation Allowance	$ —	$ —

The reconciliation of the federal statutory income tax rate of 21% to the effective rate is as follows:

	Year ended December 31,		
	2021	2020	2019
Federal statutory rate	21.00 %	21.00 %	21.00 %
State taxes, net of federal benefit	4.53 %	(0.20)%	(1.36)%
Nondeductible compensation	(13.77)%	(0.89)%	(1.49)%
Meals and entertainment	(1.13)%	(0.50)%	(2.04)%
Share-based compensation	23.31 %	(1.24)%	(5.05)%
Employee retention credit	3.37 %	— %	— %
Tax credits	2.01 %	0.32 %	0.45 %
Uncertain tax positions	0.02 %	0.24 %	1.22 %
NOL carryback rate differential	— %	10.99 %	— %
Other	10.90 %	(1.66)%	0.12 %
Valuation allowance	(52.70)%	(8.14)%	(12.83)%
Effective tax rate	(2.46)%	19.92 %	0.02 %

The tax benefit associated with the change in the valuation allowance had a significant impact on the Company's effective tax rate for the year ended December 31, 2021. Additionally, the effective tax rate was affected by other permanent differences, such as share based compensation, executive compensation limitations and employee retention credit benefit.

The tax benefit associated with the carryback of federal net operating losses under the CARES Act had a significant impact on the Company's effective tax rate for the year ended December 31, 2020. Additionally, the effective tax rate was affected by other permanent differences, as well as the change in the valuation allowance.

Current and deferred income tax (benefit) expense is as follows (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Current:			
Federal	$ 91	$ (12,418)	$ (53)
State	156	159	48
Total current	247	(12,259)	(5)
Deferred:			
Federal	—	—	—
State	—	—	—
Total deferred	—	—	—
Total expense (benefit)	$ 247	$ (12,259)	$ (5)

Certain items of income and expense are not reported in tax returns and financial statements in the same year. The tax effect of such temporary differences is reported as deferred income taxes. The measurement of deferred tax assets is reduced, if necessary, by the amount of any tax benefit that, based on available evidence, is not expected to be realized. The Company establishes a valuation allowance for deferred tax assets for which realization is not likely. As of each reporting date, management considers new evidence, both positive and negative, that could affect its view of the future realization of deferred tax assets.

A valuation allowance of $41.1 million and $35.6 million was recorded against the deferred tax asset balance as of December 31, 2021 and 2020, respectively. The Company maintains a full valuation allowance because it is not more likely than not the

deferred tax assets will be utilized based on all available positive and negative evidence. In the event that the weight of the evidence changes in the future, any reduction in the valuation allowance would result in an income tax benefit.

At December 31, 2021 and 2020, the Company had income tax net operating loss ("***NOL***") carryforwards for federal and state purposes of $84.2 million and $104.2 million and $62.7 million and $68.5 million, respectively. A portion of the Company's NOLs and tax credits are subject to annual limitations due to ownership change limitations provided by Internal Revenue Code Section 382. If not utilized, the federal and state tax NOL carryforwards will expire between 2027 and 2037. As of December 31, 2021, the Company has recorded a deferred tax asset for both federal and state NOL carryforwards of approximately $17.7 million and $5.6 million, respectively. As of December 31, 2020, the Company has recorded a deferred tax asset for federal and state NOL carryforwards of $13.2 million and approximately $4.0 million, respectively.

The following is a tabular reconciliation of the total amounts of unrecognized tax benefits (in thousands) included in other liabilities in the consolidated balance sheets:

	2021	2020	2019
Unrecognized tax benefits - January 1	$ 477	$ 627	$ 938
Gross increases - tax positions in current period	20	—	56
Decreases in prior year positions	(28)	(150)	(367)
Unrecognized tax benefits - December 31	$ 469	$ 477	$ 627

Included in the balance of unrecognized tax benefits as of both December 31, 2021 and 2020 were $0.5 million of tax benefits that, if recognized, would affect the effective tax rate.

The Company recognizes accrued interest related to unrecognized tax benefits and penalties as income tax expense. Related to the unrecognized tax benefits noted above, the Company accrued $0 of interest during 2021. The Company accrued $0.1 million of interest during 2019 and, in total, as of December 31, 2019 had recognized $0.1 million of interest. The Company accrued $0.1 million of interest during 2018, and, in total, as of December 31, 2018 had recognized $0.1 million of interest.

The Company is subject to taxation in the U.S. and various state jurisdictions. As of December 31, 2021, the Company's tax returns for 2018 through 2020 generally remain open for exam by taxing jurisdictions. Additional prior years may be open to the extent attributes are being carried forward to an open tax year.

13. Supplemental Disclosure of Cash Flow and Non-Cash Investing and Financing Activities

Selected cash payments, receipts, and noncash activities are as follows (in thousands):

	Years Ended December 31,		
	2021	2020	2019
Cash paid for interest	$ 4,327	$ 7,456	$ 4,331
Income taxes paid	169	208	308
Cash paid for operating leases	1,522	1,569	1,650
Non-cash activities:			
Purchases of equipment included in accounts payable	8	1,062	1,184
Deferred financing costs	—	53	6,650
Note receivable for sale of property and equipment	75	—	—
Deemed dividends of Series B Convertible Preferred Stock	926	32,028	—
Amendment fee on previous term loan	—	722	—
Lease right of use asset and liability	2,251	1,169	—
Fair value of non-cash consideration received for option exercise	380	922	—

14. Commitments and Contingencies

Contractual Commitments

The Company has commitments for meeting space. These commitments expire over 3 years following December 31, 2021, and generally contain renewal options.

The estimated meeting space commitments are as follows (in thousands):

Years Ended December 31,		
2022	$	383
2023		204
2024		114
	$	701

Litigation and Regulatory Matters

In the ordinary course of business, the Company and its subsidiaries may be a party to pending and threatened legal, regulatory, and governmental actions and proceedings (including those described below). In view of the inherent difficulty of predicting the outcome of such matters, particularly where the plaintiffs or claimants seek very large or indeterminate damages or where the matters present novel legal theories or involve a large number of parties, the Company generally cannot predict what the eventual outcome of the pending matters will be, what the timing of the ultimate resolution of these matters will be, or what the eventual recovery, loss, fines or penalties related to each pending matter may be.

In accordance with applicable accounting guidance, the Company accrues a liability when those matters present loss contingencies that are both probable and estimable. The Company's financial statements at December 31, 2021 reflect the Company's current best estimate of probable losses associated with these matters, including costs to comply with various settlement agreements, where applicable. As of December 31, 2021, the Company had accrued $1.0 million related to the matters described below. Of this amount, the Company is indemnified for $0.6 million from its insurance providers.

The Company paid $6.7 million to settle legal proceedings during 2021. In addition, $1.1 million was paid on the Company’s behalf through an insurance provider during 2021 relating directly to settlement matters. In addition, during 2021, the Company received funds from certain director and officer insurance policies for previously-incurred legal expenses under the Company’s indemnification agreements. These funds were recognized as a reduction to investigation, restatement and related expense on the consolidated statement of operations.

The Company paid $7.4 million to settle legal proceedings during 2020. In addition, $3.5 million was paid on the Company’s behalf through an insurance provider during 2020.

The actual costs of resolving these matters may be in excess of the amounts reserved.

Securities Class Action

On January 16, 2019, the United States District Court for the Northern District of Georgia entered an order consolidating two purported securities class actions (*MacPhee v. MiMedx Group, Inc.*, et al. filed February 23, 2018 and *Kline v. MiMedx Group, Inc.*, et al. filed February 26, 2018). The order also appointed Carpenters Pension Fund of Illinois (“***CPFI***”) as lead plaintiff. On May 1, 2019, CPFI filed a consolidated amended complaint, naming as defendants the Company, Michael J. Senken, Parker H. “Pete” Petit, William C. Taylor, Christopher M. Cashman and Cherry Bekaert & Holland LLP. The amended complaint (the “***Securities Class Action Complaint***”) alleged violations of Section 10(b) of the Securities Exchange Act of 1934, as amended (the “***Exchange Act***”), Rule 10b-5 promulgated thereunder, and Section 20(a) of the Exchange Act. It asserted a class period of March 7, 2013 through June 29, 2018. Following the filing of motions to dismiss by the various defendants, CPFI was granted leave to file an amended complaint. CPFI filed its amended complaint against the Company, Michael J. Senken, Parker H. Petit, William C. Taylor, and Cherry Bekaert & Holland (Christopher Cashman was dropped as a defendant) on March 30, 2020; defendants filed motions to dismiss on May 29, 2020. On March 25, 2021, the Court granted defendants’ respective motions to dismiss, finding that CPFI lacked standing to bring the underlying claims and also could not establish loss causation because it sold all of its shares in MIMEDX prior to any corrective disclosures, and dismissed the case. On April 22, 2021, CPFI filed a motion for reconsideration of the dismissal and for leave to amend to add a new plaintiff to attempt to cure the standing and loss causation issues. The Company opposed CPFI’s motions and the hearing on the same was held on September 24, 2021.

On January 28, 2022, the Court denied CPFI’s motion to reconsider and motion to substitute class representative. On February 25, 2022, CPFI filed a Notice of Appeal in the 11th Circuit Court of Appeals.

Investigations

On February 8, 2021, the Company received a subpoena issued by the Department of Defense Office of Inspector General seeking records regarding the sales of the Company's micronized and other products to federal medical facilities and federal contracting offices, including those operated by the Department of Veterans Affairs or the Department of Defense. The subpoena also seeks information regarding the Company's communications with the FDA regarding its products. The Company understands that the Office of the United States Attorney for the Western District of Washington Civil Division is overseeing the investigation, which is being conducted principally by agents employed by the Department of the Army Criminal Investigation Command. The Company is cooperating with the government's investigation and at this time the Company is unable to predict the outcome of the investigation, including whether the investigation will result in any action or proceeding against the Company.

Former Employee Litigation and Related Matters

On January 12, 2021, the Company filed suit in the Circuit Court of the Eleventh Judicial District in and for Miami-Dade County, Florida (*MiMedx Group, Inc. v. Petit*, et. al.) against its former CEO, Parker H. "Pete" Petit, and its former COO, William C. Taylor, seeking a determination of its rights and obligations under indemnification agreements with Petit and Taylor following a federal jury's guilty verdict against Petit for securities fraud and Taylor for conspiracy to commit securities fraud. The Company is seeking a declaratory judgment that it is not obligated to indemnify or advance expenses to Petit and Taylor in connection with certain cases to which Petit and Taylor are parties and also seeking to recoup amounts previously paid on behalf of Petit and Taylor in connection with such cases. On April 22, 2021, Petit and Taylor filed an answer and asserted counterclaims against the Company alleging breach of their indemnification agreements, breach of the covenant of good faith and fair dealing with respect to their indemnification agreements, and seeking a declaration that the Company remains obligated to indemnify and advance fees in connection with certain cases. Petit and Taylor simultaneously filed a motion seeking to compel the Company to advance and reinstate its payments of Petit and Taylor's legal expenses. The Company opposed Petit and Taylor's motion and a hearing was set for June 23, 2021. At the joint request of the parties, the hearing was cancelled to allow the parties to attend a mediation to attempt a resolution of this matter; such mediation was held on August 11, 2021. Negotiations are ongoing.

Defamation Claims

On June 4, 2018, Sparrow Fund Management, LP ("***Sparrow***") filed a complaint against the Company and Petit, including claims for defamation and civil conspiracy in the United States District Court for the Southern District of New York (*Sparrow Fund Management, L.P. v. MiMedx Group, Inc.*, et. al.). The complaint seeks monetary damages and injunctive relief and alleges the defendants commenced a campaign to publicly discredit Sparrow by falsely claiming it was a short seller who engaged in illegal and criminal behavior by spreading false information in an attempt to manipulate the price of our common stock. The Company has settled this matter.

Other Matters

Under the Florida Business Corporation Act and agreements with its current and former officers and directors, the Company is obligated to indemnify its current and former officers and directors who are made party to a proceeding, including a proceeding brought by or in the right of the corporation, with certain exceptions, and to advance expenses to defend such matters. The Company has already borne substantial costs to satisfy these indemnification and expense advance obligations and may continue to do so in the future.

In addition to the matters described above, the Company is a party to a variety of other legal matters that arise in the ordinary course of the Company's business, none of which is deemed to be individually material at this time.

Previously-Settled Matters

The matters discussed below have been settled with the counterparty and their resolution has been disclosed in previously-issued financial statements. There are no contingent or continuing obligations associated with these matters.

Shareholder Derivative Suits

On December 6, 2018, the United States District Court for the Northern District of Georgia entered an order consolidating three shareholder derivative actions (Evans v. Petit, et al. filed September 25, 2018, Georgalas v. Petit, et al. filed September 27, 2018, and Roloson v. Petit, et al. filed October 22, 2018) that had been filed in the Northern District of Georgia. On January 22, 2019, plaintiffs filed a verified consolidated shareholder derivative complaint. The consolidated action sets forth claims of breach of fiduciary duty, corporate waste and unjust enrichment against certain former officers, and certain current and former

directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Joseph G. Bleser, J. Terry Dewberry, Charles R. Evans, Larry W. Papasan, Luis A. Aguilar, Bruce L. Hack, Charles E. Koob, Neil S. Yeston and Christopher M. Cashman. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company filed a motion to stay on February 18, 2019, pending the completion of the investigation by the Company's Special Litigation Committee. The Special Litigation Committee completed its investigation relating to this action and filed an executive summary of its findings with the Court on July 1, 2019. The parties (together with parties from the Hialeah derivative lawsuit, the Nix and Demaio derivative lawsuit, and the Murphy derivative lawsuit, each described below) held a mediation on February 11, 2020. Following continued discussions, on May 1, 2020, the parties notified the Court that plaintiffs and the Company had reached an agreement in principle to settle this consolidated derivative action, which settlement also encompasses all claims asserted in the Hialeah derivative lawsuit, the Nix and Demaio derivative lawsuit, and the Murphy derivative lawsuit. The hearing on final approval was held on December 21, 2020 and the Court entered an Order granting final approval of the settlement the same day.

On October 29, 2018, the City of Hialeah Employees Retirement System ("***Hialeah***") filed a shareholder derivative complaint in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida (the "***Florida Court***"). The complaint alleges claims for breaches of fiduciary duty and unjust enrichment against certain former officers, and certain current and former directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Joseph G. Bleser, J. Terry Dewberry, Charles R. Evans, Bruce L. Hack, Charles E. Koob, Larry W. Papasan, and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company moved to stay the action on February 7, 2019, to allow the prior-filed consolidated derivative action in the Northern District of Georgia to be resolved first and to allow the Company's Special Litigation Committee time to complete its investigation. The Company also filed a motion to dismiss on April 8, 2019. As discussed above, the plaintiff participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and is a party to the agreement settling that consolidated derivative action. In accordance with the terms of the settlement, Hialeah filed a motion for leave to dismiss its derivative action with prejudice on January 4, 2021.

On May 15, 2019, two individuals purporting to be shareholders of the Company filed a shareholder derivative complaint in the Superior Court for Cobb County, Georgia. (Nix and Demaio v. Evans, et al.) The complaint alleges claims for breaches of fiduciary duty, corporate waste and unjust enrichment against certain current and former directors and officers of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Chris Cashman, Lou Roselli, Mark Diaz, Charles R. Evans, Luis A. Aguilar, Joseph G. Bleser, J. Terry Dewberry, Bruce L. Hack, Charles E. Koob, Larry W. Papasan and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Court ordered this matter stayed pending the resolution of the consolidated derivative suit pending in the Northern District of Georgia. As discussed above, the plaintiffs participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and are a party to the agreement settling that consolidated derivative action. In accordance with the terms of the settlement, plaintiffs filed a notice of settlement and voluntary dismissal with prejudice on January 13, 2021.

On August 12, 2019, John Murphy filed a shareholder derivative complaint in the United States District Court for the Southern District of Florida (Murphy v. Petit, et al.). The complaint alleged claims for breaches of fiduciary duty and unjust enrichment against certain former officers, and certain current and former directors, of the Company: Parker H. Petit, William C. Taylor, Michael J. Senken, John E. Cranston, Alexandra O. Haden, Charles R. Evans, Luis A. Aguilar, Joseph G. Bleser, J. Terry Dewberry, Bruce L. Hack, Charles E. Koob, Larry W. Papasan and Neil S. Yeston. The allegations generally involve claims that the defendants breached their fiduciary duties by causing or allowing the Company to misrepresent its financial statements as a result of improper revenue recognition. The Company filed a motion to transfer this action to the Northern District of Georgia. Prior to resolution of that motion, the plaintiff voluntarily dismissed this action without prejudice. As discussed above, the plaintiff participated in the mediation that took place in connection with the prior-filed consolidated derivative action in the Northern District of Georgia and is a party to the agreement settling that consolidated derivative action. Pursuant to the terms of the settlement, this action is deemed dismissed with prejudice.

Qui Tam Matters

On January 19, 2017, a former employee of the Company filed a *qui tam* False Claims Act complaint in the United States District Court for the District of South Carolina (*United States of America, ex rel. Jon Vitale v. MiMedx Group, Inc.*) alleging that the Company's donations to the patient assistance program, Patient Access Network Foundation, violated the Anti-Kickback Statute and resulted in submission of false claims to the government. The government declined to intervene and the complaint was unsealed on August 10, 2018. The Company filed a motion to dismiss on October 1, 2018. The Company's

motion to dismiss was granted in part and denied in part on May 15, 2019. The parties have reached an agreement to resolve this matter.

On January 20, 2017, two former employees of the Company, filed a qui tam False Claims Act complaint in the United States District Court for the District of Minnesota (Kruchoski et. al. v. MiMedx Group, Inc.). An amended complaint was filed on January 27, 2017. The operative complaint alleges that the Company failed to provide truthful, complete and accurate information about the pricing offered to commercial customers in connection with the Company's Federal Supply Schedule contract. On May 7, 2019, the Department of Justice ("DOJ") declined to intervene, and the case was unsealed. In April 2020, without admitting the allegations, the Company agreed to pay $6.5 million to the DOJ to resolve this matter. This amount was paid during the year ended December 31, 2020.

Former Employee Matters

In December 2019, MiMedx received notice of a complaint filed in July 2018 with the Occupational Safety and Health Administration ("OSHA") section of the Department of Labor ("DOL") by Thomas Tierney, a former Regional Sales Director, against MiMedx and the referenced individuals, *Tierney v. MiMedx Group, Inc., Parker Petit, William Taylor, Christopher Cashman, Thornton Kuntz, Jr. and Alexandra Haden*, DOL No. 4-5070-18-243. Mr. Tierney alleged that he was terminated from MiMedx in retaliation for reporting concerns about revenue recognition practices, compliance issues, and the corporate culture, in violation of the anti-retaliation provisions of the Sarbanes-Oxley Act. The parties settled this matter and OSHA dismissed the complaint on May 20, 2020.

On January 21, 2019, a former employee filed a complaint in the Fifth Judicial Circuit, Richland County, South Carolina (Jon Michael Vitale v. MiMedx Group, Inc. et. al.) against the Company alleging retaliation, defamation and unjust enrichment and seeking monetary damages. The former employee claims he was retaliated against after raising concerns related to insurance fraud and later defamed by comments concerning the indictments of three South Carolina VA employees. On February 19, 2019, the case was removed to the U.S. District Court for the District of South Carolina. The Company filed a motion to dismiss on April 8, 2019, which was denied by the Court. This matter is resolved.

Intellectual Property Litigation

The NuTech Action

On March 2, 2015, the Company filed a patent infringement lawsuit against NuTech Medical, Inc. ("***NuTech***") and DCI Donor Services, Inc. ("***DCI***") in the United States District Court for the Northern District of Alabama (*MiMedx Group, Inc. v. NuTech Medical, Inc. et. al.*). The Company has alleged that NuTech and DCI infringed and continue to infringe on the Company's patents through the manufacture, use, sale and/or offering of their tissue graft product. The Company has also asserted that NuTech knowingly and willfully made false and misleading representations about its products to customers and prospective customers. The Company is seeking permanent injunctive relief and unspecified damages. The case was stayed pending the restatement of the Company's financial statements. Since the Company has completed its restatement, the case resumed. The parties have reached a settlement in the matter and the case was dismissed with prejudice.

The Osiris Action

On February 20, 2019, Osiris Therapeutics, Inc. ("***Osiris***") refiled its trade secret and breach of contract action against the Company (which had been dismissed in a different forum) in the United States District Court for the Northern District of Georgia (*Osiris Therapeutics, Inc. v. MiMedx Group, Inc.*). The parties have reached a settlement in the matter and the case was dismissed with prejudice on October 26, 2020.

15. Revenue

Disaggregation of Revenue by Product

MIMEDX has two classes of products: (1) Advanced Wound Care, or Section 361, products, consisting of its sheet allograft products, and (2) Section 351 products, consisting of the Company's micronized and particulate products. Advanced Wound Care is further disaggregated between the Company's Tissue/Other and Cord products.

Below is a summary of net sales by each class of product (in thousands):

	Year Ended December 31,	
	2021	2020
Advanced Wound Care		
Tissue/Other	$ 216,418	$ 192,566
Cord	23,599	16,073
Advanced Wound Care	240,017	208,639
Section 351	17,610	31,828
Other	988	7,767
Total	$ 258,615	$ 248,234

Due to the disconnection between the performance obligations related to sales and the recognition of revenue on such sales, it is not practical for the Company to allocate these amounts to specific product lines related to the Remaining Contracts (included in "Other" in the table above) as well as revenue recognized during the year ended December 31, 2019.

Disaggregation of Revenue by Customer

Prior to May 31, 2021, the conclusion of the FDA's enforcement discretion period, the Company evaluated its revenue on the basis of its two primary distribution channels: (1) direct to customers (healthcare professionals and/or facilities) ("***Direct Customers***"); and (2) sales through distributors ("***Distributors***").

Below is a summary of net sales by each customer type (in thousands):

	Year Ended December 31,		
	2021	2020	2019
Direct Customers	$ 250,009	$ 240,690	$ 288,800
Distributors	8,606	7,544	10,455
Total	$ 258,615	$ 248,234	$ 299,255

The Company did not have significant foreign operations or a single external customer from which 10% or more of revenues were derived during the years ended December 31, 2021, 2020, and 2019.

16. 401(k) Plan

The Company has a 401(k) plan (the "***401(k) Plan***") covering all employees who have completed one month of service. Under the 401(k) Plan, participants could defer up to 90% of their eligible wages to a maximum of $19,500 per year (annual limit for 2021). Employees age 50 or over in 2021 could make additional pre-tax contributions up to $6,500. In 2021, the Company matched 50% of employee contributions up to 8% of the employee's eligible compensation. In 2020 and 2019, the Company matched 50% of employee contributions up to 5% of the employee's eligible compensation. The matching contribution for the years ended December 31, 2021, 2020, and 2019 was $2.7 million, $1.5 million, and $1.5 million, respectively.

17. Related Party Transactions

The Company has employed Thomas Koob as its Chief Scientific Officer (a non-executive officer) since 2006. Thomas Koob is the brother of a former director, Charles Koob. Subsequent to the Company's employment of Thomas Koob, Charles Koob was appointed as a director of the Company in March 2008. Charles Koob's term as a Director expired at the 2020 Annual Meeting held on November 20, 2020. In 2019, the Company paid Thomas Koob a salary of $0.2 million and provided equity, incentive compensation and other compensation of $0.2 million. In 2020, the Company paid Thomas Koob an annual salary of $0.2 million and provided equity, incentive compensation and other compensation of $0.3 million.

The Company employs Simon Ryan, the brother-in-law of the Company's former General Counsel, Alexandra O. Haden, as a sales representative. In 2019, the Company paid Mr. Ryan total compensation of $0.2 million, consisting of a salary of $0.1 million and sales commissions, equity and other compensation of $0.1 million. Ms. Haden resigned from her position as General Counsel and Secretary of the Company, effective August 12, 2019, to accept another position.

18. Restructuring

Set forth below are disclosures relating to restructuring initiatives that resulted in material expenses or cash expenditures during the year ended December 31, 2019, and resulted in material restructuring liabilities at December 31, 2019. Employee retention and certain other employee benefit-related costs related to the Company's restructuring are expensed ratably over an agreed-upon service period. One-time employee separation and related employee benefit costs are generally expensed as incurred.

In December 2018, the Company announced a reduction of the Company's workforce by approximately 240 full-time employees, or 24% of its total workforce, of which approximately half were sales personnel as part of the plans to implement a broad-based organizational realignment, cost reduction and efficiency program to better ensure the Company's cost structure was appropriate given its revenue expectations.

As a result of the December 2018 broad-based organizational realignment, cost reduction and efficiency program, the Company incurred pre-tax charges of $8.5 million during the years ended December 31, 2019. The charges related to employee retention and other one-time employee separation benefit-related costs. These charges are included in the cost of sales, research and development, and selling, general and administrative expenses in the consolidated statements of operations.

The Company's restructuring program concluded in 2020. All obligations related to the Company's restructuring program have been settled as of December 31, 2020.

Changes to this liability during the years ended December 31, 2020 and 2019 were as follows (in thousands):

Liability balance as of December 31, 2018	$	5,607
Expenses		8,543
Cash distributions		(10,589)
Liability balance as of December 31, 2019		3,561
Expenses		—
Cash distributions		(3,561)
Liability balance as of December 31, 2020	$	—

19. Subsequent Events

On February 28, 2022, the Company executed an Amendment to the Hayfin Loan Agreement (the "***Amendment***"). Material provisions of the Amendment are detailed in Note 9, *Long-Term Debt*.

Schedule II Valuation and Qualifying Accounts

MIMEDX GROUP, INC. AND SUBSIDIARIES
SCHEDULE II VALUATION AND QUALIFYING ACCOUNTS
Years ended December 31, 2021, 2020 and 2019 (in thousands)

	Balance at Beginning of Year	Additions charged to Expense or Revenue	Deductions and write-offs	Balance at End of Year
For the year ended December 31, 2021				
Allowance for doubtful accounts	$ 737	$ 791	$ (341)	$ 1,187
Allowance for product returns	$ 2,321	$ 2,508	$ (2,280)	$ 2,549
For the year ended December 31, 2020				
Allowance for doubtful accounts	$ —	$ 719	$ 18	$ 737
Allowance for product returns	$ 4,115	$ 705	$ (2,499)	$ 2,321
For the year ended December 31, 2019				
Allowance for doubtful accounts	$ —	$ —	$ —	$ —
Allowance for product returns	$ 8,510	$ —	$ (4,395)	$ 4,115

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of MiMedx Group, Inc.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of MiMedx Group, Inc. and subsidiaries (the "Company") as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2021, of the Company and our report dated February 28, 2022, expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Item 9A Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touch LLP
Atlanta, Georgia
February 28, 2022

Evaluation of Disclosure Controls and Procedures

Management maintains a set of disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management, including our CEO and CFO, to allow for timely decisions regarding required disclosure.

An evaluation of the effectiveness of the design and operation of our disclosure controls and procedures was performed under the supervision and with the participation of our management, including our CEO and CFO. As a result of this evaluation, our CEO and CFO concluded that our disclosure controls and procedures were effective as of December 31, 2021.

Management's Report on Internal Control Over Financial Reporting

Management, including our CEO and CFO, is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act and based upon the criteria established in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO framework"). The Company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of our financial statements for external purposes in accordance with United States Generally Accepted Accounting Principles (“GAAP”).

An effective internal control system, no matter how well designed, has inherent limitations, including the possibility of human error or overriding of controls, and therefore can provide only reasonable assurance with respect to reliable financial reporting. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may demonstrate.

Under the supervision and with the participation of our management, including our CEO and CFO, we have conducted an evaluation of the effectiveness of our internal control over financial reporting based on the COSO framework. Based on evaluation under these criteria, management determined that we did maintain effective internal control over financial reporting as of December 31, 2021.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that a reasonable possibility exists that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

The Company previously disclosed material weaknesses in internal control over financial reporting as of December 31, 2020 in Item 9A of our Annual Report in Form 10-K for the year ended December 31, 2020 related to certain control activities for which we did not have proper segregation of duties, were not sufficiently evidenced, or included assumptions which were not evaluated for completeness, accuracy or application of GAAP as part of the control.

Our independent registered public accounting firm, Deloitte & Touche LLP, has audited the effectiveness of our internal control over financial reporting as of December 31, 2021, as stated in their report which appears on page 79 of this Form 10-K.

Remediated Material Weaknesses

Remediation of the previously identified material weaknesses and strengthening our internal control environment were priorities for us throughout 2021. We implemented and tested the design and operating effectiveness of new and existing controls related to the previously identified material weaknesses, as follows:

- The Company enhanced its financial close process by introducing additional layers of independent reviews by appropriately qualified individuals and improving the precision and timeliness of reviews applied to various financial result analyses, including revenue recognition, recording of inventory and accrued expenses. Additionally, the Company enhanced the level of evidence of review required to be maintained to evidence the operation of controls.

- The Company enhanced its sales order review process to ensure compliance with Company sales policies by requiring retention of appropriate evidence of customer arrangements and establishing a quarterly review of key revenue metrics by finance and accounting personnel.

- The Company enhanced the operation of controls to address the accuracy and completeness of information used in the performance of controls, including retention of evidence of review and assessment of significant judgements to ensure

proper application of GAAP specific to accounting for revenue, inventory, goodwill impairment and the provision for income taxes.

- Management enhanced the controls that validate the completeness and accuracy of data utilized in financial forecasting and periodic goodwill analyses, employing the use of checklists and assessing the appropriateness of significant estimates.

Management has deemed the newly implemented or enhanced controls described above to be operating effectively as of December 31, 2021, and has determined them to have appropriately remediated the previously identified material weaknesses.

Changes in Internal Control Over Financial Reporting

Other than the changes described above in "Remediated Material Weaknesses," there were no changes during the quarter ended December 31, 2021 in our internal control over financial reporting (as such term is defined in the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

Item 1.01 Entry into a Material Definitive Agreement

Amendment to Hayfin Loan Agreement

On February 28, 2022, the Company entered into the Amendment. Refer to Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources for details.

Item 9C. Disclosures Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Information required by this Item will be contained in our definitive proxy statement relating to our 2022 Annual Meeting of Shareholders under the captions "Executive Officers," "Election of Directors" and "Delinquent Section 16(a) Reports," or similar captions which are incorporated herein by reference.

Item 11. Executive Compensation

Information required by this Item will be contained in our definitive proxy statement relating to our 2022 Annual Meeting of Shareholders under the caption "Executive Compensation Discussion and Analysis," "Summary Compensation Table (2021, 2020 and 2019," "Grants of Plan Based Awards for 2021," "Outstanding Equity Awards on December 31, 2021," "2021 Options Exercised and Stock Vested Table," "2021 Potential Payments Upon Termination or Change in Control," "2021 Director Compensation," "Compensation Committee Report" and "Compensation Committee Interlocks and Insider Participation" or similar captions which are incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

Information required by this Item will be contained in our definitive proxy statement relating to our 2022 Annual Meeting of Shareholders under the captions "Security Ownership of Certain Beneficial Owners and Management," and "Equity Compensation Plan Information," or similar captions which are incorporated herein by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Information required by this Item will be contained in our definitive proxy statement relating to our 2022 Annual Meeting of Shareholders under the captions "Policies and Procedures for Approval of Related Party Transactions," "Related Party Transactions," and "Director Independence" or similar captions which are incorporated herein by reference.

Item 14. Principal Accounting Fees and Services

Information required by this Item will be contained in our definitive proxy statement relating to our 2022 Annual Meeting of Shareholders under the captions “Audit Matters,” or a similar caption which is incorporated herein by reference.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a) Documents filed as part of this report:

(i) Financial Statements

(ii) Financial Statement Schedule:

The following Financial Statement Schedule is filed as part of this Report:

Schedule II Valuation and Qualifying Accounts for the years ended December 31, 2021, 2020 and 2019

(iii) Exhibits

See Item 15(b) below. Each management contract or compensation plan has been identified with an asterisk.

(b) Exhibits

Notes

*	Indicates a management contract or compensatory plan or arrangement
#	Filed herewith
##	Certain exhibits and schedules have been omitted pursuant to Item 601(b)(10) of Regulation S-K, but a copy will be furnished supplementally to the Securities and Exchange Commission upon request.

Exhibit Number	Description
3.1	Restated Articles of Incorporation, adopted March 4, 2021, effective March 5, 2021 (incorporated by reference to Exhibit 3.1 to the Registrant's Form 10-K filed March 8, 2021).
3.2	Articles of Amendment to Restated Articles of Incorporation, effective June 3, 2021 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed June 10, 2021).
3.3	Articles of Amendment to Restated Articles of Incorporation, effective June 3, 2021 (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed June 10, 2021).
3.4	Bylaws of MiMedx Group, Inc., as amended and restated as of April 19, 2021 (incorporated by reference to Exhibit 3.1 to the Registrant's Form 8-K filed on April 21, 2021).
3.5	Amendment No. 1 to the Company's Bylaws effective May 27, 2021 (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K Filed June 3, 2021).
4.1	The description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934, incorporated by reference to Registration Statement on Form 8-A filed November 2, 2020.
10.1##	Loan Agreement dated as of June 30, 2020 by and among MiMedx Group, Inc., certain subsidiaries of MiMedx Group, Inc. parties thereto, the Lenders from time to time party hereto, Hayfin Services LLP, as administrative agent for the Lenders and as collateral agent for the Secured Parties, incorporated by reference to Exhibit 10.36 to Annual Report on Form 10-K filed July 6, 2020.
10.2##	Securities Purchase Agreement, dated as of June 30, 2020, by and between MiMedx Group, Inc., Falcon Fund 2 Holding Company, L.P. and certain other investors, incorporated by reference to Exhibit 10.38 to Annual Report on Form 10-K filed July 6, 2020.
10.3	Registration Rights Agreement dated as of July 2, 2020, by and between MiMedx Group, Inc. and Falcon Fund 2 Holding Company, L.P., incorporated by reference to Exhibit 10.39 to Annual Report on Form 10-K filed July 6, 2020.
10.4	Lease effective May 1, 2013 between Hub Properties of GA, LLC and MiMedx Group, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q filed on May 10, 2013).
10.5	First Amendment to Lease dated March 7, 2017 between CPVF II West Oak LLC (as successor in interest to HUB Properties of GA, LLC) and MiMedx Group, Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K filed on March 13, 2017).

Exhibit Number	Description
10.6#	Third Amendment to Lease made as of November 30, 2021 for real property and improvements located at 1775 West Oak Commons Court, Marietta, Georgia between RE Fields, LLC, successor in interest to HUB Properties GA, LLC, and CPVF II West Oak LLC, and MiMedx Group, Inc., dated January 25, 2013, as amended March 7, 2017.
10.7*	MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan, as amended and restated effective February 25, 2014 (incorporated by reference to Exhibit 10.2 to the Registrant's Form 8-K filed on March 3, 2014).
10.8*	Form of Incentive Stock Option Agreement under the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-K filed on March 4, 2014).
10.9*	Form of Nonqualified Stock Option Agreement under the MiMedx Group, Inc. Assumed 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.5 to the Registrant's Form 10-K filed on March 4, 2014).
10.10*	Form of Restricted Stock Agreement for Non-Employee Directors under the MiMedx Group, Inc. 2006 Assumed Stock Incentive Plan (incorporated by reference to Exhibit 10.66 to the Registrant's Form 10-Q filed on August 8, 2013).
10.11*	Form of Restricted Stock Agreement under the MiMedx Group, Inc. 2006 Assumed Stock Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-K filed on March 4, 2014).
10.12*	2016 Equity and Cash Incentive Plan, as amended and restated through October 2, 2020, incorporated by reference to Exhibit 4.6 to Registration Statement on Form S-8 filed December 17, 2020.
10.13*	Form of Incentive Stock Option Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Form 10-Q filed on August 2, 2016).
10.14*	Form of Restricted Stock Agreement under the MiMedx Group, Inc 2016 Equity and Cash Incentive Plan (for shares not registered under the Securities Act of 1933) (incorporated by reference to Exhibit 10.9 to the Registrant's Form 8-K filed on May 30, 2019).
10.15*	Form of Restricted Stock Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q filed on August 2, 2016).
10.16*	Form of Restricted Stock Agreement for Non-Employee Directors under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.11 to the Registrant's Form 8-K filed on May 30, 2019).
10.17*	Form of Nonqualified Stock Option Agreement under the MiMedx Group, Inc. 2016 Equity and Cash Incentive Plan (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-Q filed on August 2, 2016).
10.18*	Form of Director Restricted Stock Unit Award Agreement (incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K filed March 17, 2020).
10.19*	Form of Employee (Time-Vested) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.33 to Annual Report on Form 10-K filed July 6, 2020.
10.20*	Form of Employee (Performance-Vested, uncertain number of shares) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.34 to Annual Report on Form 10-K filed July 6, 2020.
10.21*	Form of Employee (Performance-Vested, certain number of shares) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.35 to Annual Report on Form 10-K filed July 6, 2020.
10.22*	Form of Non-Employee Restricted Stock Award Agreement (vest into retirement), incorporated by reference to Exhibit 10.4 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.23*	Form of Employee (Time-Vested) Restricted Stock Unit Award Agreement, incorporated by reference to Exhibit 10.25 to the Annual Report on form 10-K file on March 8, 2021.
10.24*	Letter Agreement dated April 10, 2019 between MiMedx Group, Inc. and Timothy R. Wright (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K filed on May 9, 2019).
10.25*	Employment Offer Letter between the Company and Peter M. Carlson, as amended and restated on June 30, 2021, incorporated by reference to Exhibit 10.1 to Quarterly Report on Form 10-Q filed August 3, 2021.
10.26*	Employment Offer Letter between the Company and William F. Hulse IV as of November 4, 2019, incorporated by reference to Exhibit 10.30 to Annual Report on Form 10-K filed July 6, 2020.
10.27*	Employment Offer Letter between the Company and Rohit Kashyap dated as of July 23, 2020, incorporated by reference to Exhibit 10.2 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.28*	Employment Offer Letter between the Company and Robert B. Stein effective August 1, 2020, incorporated by reference to Exhibit 10.3 to Quarterly Report on Form 10-Q filed August 4, 2020.
10.29*	Form of Key Employee Retention and Restrictive Covenant Agreement, incorporated by reference to Exhibit 10.1 to Current Report on Form 8-K filed December 21, 2020.
10.30*	2020 Management Incentive Plan, incorporated by reference to Exhibit 10.35 to the Annual Report on form 10-K file on March 8, 2021.
10.31*	Management Incentive Plan, incorporated by reference to Exhibit 10.2 to Current Report on Form 8-K filed December 21, 2020.

Exhibit Number	Description
10.32*	Form of Indemnification Agreement (incorporated by reference to Exhibit 10.65 to the Registrant's Form 8-K filed July 15, 2008).
10.33*	Form of Director Restricted Stock Unit Award Agreement (Type I - Initial Grant, Full Amount), incorporated by reference to Exhibit 10.2 to Quarterly Report on Form 10-Q filed August 3, 2021.
10.34*	Form of Director Restricted Stock Unit Award Agreement (Type II - Initial Grant, Pro Rata Amount), incorporated by reference to Exhibit 10.3 to Quarterly Report on Form 10-Q filed August 3, 2021.
10.35*	Form of Director Restricted Stock Unit Award Agreement (Type III - Annual Grant), incorporated by reference to Exhibit 10.4 to Quarterly Report on Form 10-Q filed August 3, 2021.
10.36	Technology License Agreement dated January 29, 2007 between MiMedx, Inc., Shriner's Hospitals for Children and University of South Florida Research Foundation (incorporated by reference to Exhibit 10.32 to the Registrant's Form 8-K filed on February 8, 2008).
10.37	Cooperation Agreement dated as of May 29, 2019 among MiMedx Group, Inc., M. Kathleen Behrens Wilsey, K. Todd Newton, Richard J. Barry, Prescience Partners, LP, Prescience Point Special Opportunity LP, Prescience Capital LLC, Prescience Investment Group, LLC d/b/a Prescience Point Capital Management LLC and Eiad Asbahi (incorporated by reference to Exhibit 10.32 to the Registrant's Form 8-K filed on May 30, 2019).
10.38# ##	Amendment No. 1 to Loan Agreement dated as of February 28, 2022, which amends that certain Loan Agreement dated as of June 30, 2020 by and among MiMedx Group, Inc., certain subsidiaries of MiMedx Group, Inc. parties thereto, the Lenders from time to time party hereto, Hayfin Services LLP, as administrative agent for the Lenders and as collateral agent for the Secured Parties.
16.1	Letter from BDO USA, LLP dated March 30, 2021, incorporated by reference to Exhibit 16.1 to the Registrant's Current Report on Form 8-K filed March 30, 2021.
21.1#	Subsidiaries of MiMedx Group, Inc.
23.1#	Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm.
23.2#	Consent of BDO USA, LLP, Independent Registered Public Accounting Firm.
24.1#	Power of Attorney (included on the signature page to this Report).
31.1#	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2#	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1#	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2#	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS#	XBRL Instance Document
101.SCH#	XBRL Taxonomy Extension Schema Document
101.CAL#	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF#	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB#	XBRL Taxonomy Extension Label Linkbase Document
101.PRE#	XBRL Taxonomy Extension Presentation Linkbase Document

Item 16. Form 10-K Summary

Not applicable.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

MIMEDX GROUP, INC.

February 28, 2022

By: /s/ Peter M. Carlson
Peter M. Carlson
Chief Financial Officer and Principal Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints William F. Hulse IV and Sajid N. Ajmeri and each of them acting individually, as his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him or her in any and all capacities, to sign any and all amendments to this Annual Report for the year ended December 31, 2021, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorney to any and all amendments to said Annual Report.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature / Name	Title	Date
/s/ Timothy R. Wright Timothy R. Wright	Chief Executive Officer and Director (Principal Executive Officer)	February 28, 2022
/s/ Peter M. Carlson Peter M. Carlson	Chief Financial Officer (Principal Financial Officer)	February 28, 2022
/s/ William L. Phelan William L. Phelan	Senior Vice President and Chief Accounting Officer (Principal Accounting Officer)	February 28, 2022
/s/ M. Kathleen Behrens M. Kathleen Behrens	Chair of the Board (Director)	February 28, 2022
/s/ James L. Bierman James L. Bierman	Director	February 28, 2022
/s/ Michael J. Giuliani Michael J. Giuliani	Director	February 28, 2022
/s/ William A. Hawkins III William A. Hawkins III	Director	February 28, 2022
/s/ Cato T. Laurencin Cato T. Laurencin	Director	February 28, 2022
/s/ K. Todd Newton K. Todd Newton	Director	February 28, 2022
/s/ Martin P. Sutter Martin P. Sutter	Director	February 28, 2022
/s/ Phyllis I. Gardner Phyllis I. Gardner	Director	February 28, 2022

EXHIBIT 10.6

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE AGREEMENT (the "Third Amendment") is made as of November __, 2021 (the "Effective Date") by and between **GEORGIA RE FIELDS**, **LLC,** a Georgia limited liability company (the "Landlord"), and **MIMEDX GROUP, INC.**, a Florida corporation (the "Tenant"), with reference to the following recitals:

RECITALS:

WHEREAS, HUB Properties, GA, LLC, a Delaware limited liability company (the "Original Landlord") and Tenant entered into that certain Lease dated as of January 25, 2013 (the "Original Lease") related to the real property and improvements located at 1775 W. Oak Commons, Marietta, Georgia (the "West Oak Property"), said improvements consisting of 79,854 square feet, including parking and other facilities located on the West Oak Property: and

WHEREAS, CPVF II West Oak, LLC, successor in interest to the Original Landlord, and Tenant entered into that certain First Amendment to Lease/Service Modification dated March 7, 2017 amending the Original Lease (the "First Amendment"); and

WHEREAS, Georgia RE Fields, LLC, successor in interest to CPVF II West Oak, LLC, and Tenant entered into that certain Second Amendment to Lease letter agreement dated as of August 29, 2018 further amending the Original Lease (the "Second Amendment"); and

WHEREAS, Landlord and Tenant desire to further modify the Lease to extend the term of the Lease and make certain other adjustments to Landlord's and Tenant's respective rights and obligations under the Lease, as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby acknowledge and agree as follows:

1. The Lease. The Original Lease, as amended by the First Amendment, the Second Amendment and this Third Amendment shall be referred to herein as the "Lease." All capitalized terms not otherwise defined herein shall have the same meanings ascribed to such terms in the Lease. In the event of any inconsistency between the terms and provisions of the Lease and those of this Third Amendment, the terms and provisions of this Third Amendment shall control. This Third Amendment shall be binding upon the successors and assigns of the parties hereto.

2. Extension of Term; Option to Renew. The term of the Lease shall be extended for a period of twenty-four (24) months, commencing January 31, 2023 and expiring January 31, 2025 (the "Extended Term"). Further, Tenant shall have the right to extend the term for an additional 12-month period from February 1, 2025 to January 31, 2026 (the "Option Period"), provided Tenant delivers written notice to Landlord of Tenant's desire to extend on or before January 31, 2024. All of the terms, covenants and provisions of the Lease applicable immediately prior to the expiration of the Extended Term shall apply to the Option Period except that (i) the Annual Fixed Rent shall be as provided in Paragraph 3 below and (ii) Tenant shall have no further right to extend the term of this Lease beyond the Option Period.

3. Annual Fixed Rent. Commencing February 1, 2023, Tenant shall pay Annual Fixed Rent as follows:

Period	Annual Rate Per Square Foot	Annual Fixed Rent	Monthly Fixed Rent
2/1/2023 to 1/31/2024	$15.00	$1,197,810.00	$99,817.50
2/1/2024 to 1/31/2025	$15.45	$1,233,744.30	$102,812.03
Option Period			
2/1/2025 to 1/31/2026	$15.91	$1,270,477.14	$105,873.10

4. Broker. Tenant represents and warrants that Tenant is represented by Newmark ("Broker") with regard to this Third Amendment and to Tenant's and Landlord's knowledge, no other broker(s) has participated in any negotiations related to this Third Amendment or is entitled to any commission in connection herewith. Tenant hereby indemnifies and holds harmless Landlord from and against any and all claims of any other broker(s) claiming under Tenant in connection with this Third Amendment. Landlord has contracted separately to pay Newmark a commission for this transaction.

5. Deletion of Original Option to Renew. Landlord and Tenant hereby acknowledge and agree that the right to extend the Lease for the Option Period as provided in Paragraph 2 above shall be in substitution for Tenant's right to extend the Lease pursuant to Section 2.3 of the Original Lease. Accordingly, Section 2.3 of the Original Lease is hereby deleted in its entirety.

6. Miscellaneous. Except as expressly altered or amended in this Third Amendment, all the terms, covenants and conditions of the Lease are, and shall continue to be, in full force and effect. This Third Amendment shall be governed by the laws of the State of Georgia without regard to its principles of conflicts of laws. This Third Amendment constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings. This Third Amendment may be modified, amended, changed, or terminated only by an agreement in writing signed by all parties hereto. No waiver shall be deemed to have been made by any party of any of its rights under the Lease unless the same is in writing and is signed on its behalf by an authorized signatory. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the party granting such waiver in any other respect or at any other time. This Third Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Third Amendment in electronic (e.g., "pdf" or "tif") format by email shall be as effective as delivery of a manually executed counterpart of this Third Amendment. In the event that one or more of the provisions of this Third Amendment should, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Third Amendment, and such provision (or part thereof) shall be ineffective to the extent of such invalidity, illegality, or unenforceability.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment as of the Effective Date above written.

LANDLORD:
GEORGIA RE FIELDS, LLC
BY: Fields-Realty, LLC
ITS: Manager

By: /s/ Kim B. Fields
Name: Kim B. Fields
Title: Authorized Member

TENANT:
MIMEDX GROUP, INC.

By: /s/ Peter M. Carlson
Name: Peter M. Carlson
Title: Chief Financial Officer

AMENDMENT NO. 1 TO LOAN AGREEMENT

THIS AMENDMENT NO. 1 TO LOAN AGREEMENT (this "**Amendment**"), is made and entered into as of February 28, 2022, by and among **MIMEDX GROUP, INC.**, a Delaware corporation (the "**Borrower**"), the Guarantors, the Lenders party hereto (who, as of the date hereof, constitute all Lenders) and **HAYFIN SERVICES LLP** (in its individual capacity, "**HFS**"), as administrative agent for the Lenders (in such capacity, including any successor thereto, the "**Administrative Agent**") and as collateral agent (in such capacity, including any successor thereto, the "**Collateral Agent**") for the Secured Parties.

PRELIMINARY STATEMENT:

WHEREAS, pursuant to that certain Loan Agreement, dated as of June 30, 2020 (as amended, restated, amended and restated, extended, supplemented and/or otherwise modified from time to time, the "**Existing Loan Agreement**"; the Existing Loan Agreement as amended by this Amendment, and as the same may be further amended, restated, amended and restated, extended, supplemented and/or otherwise modified from time to time prior to the date hereof, the "**Loan Agreement**"; capitalized terms used herein but not defined herein shall have the meaning given to them in the Loan Agreement), by and among the Borrower, the Lenders from time to time party thereto, the Administrative Agent and the Collateral Agent, the Lenders committed to make certain loans and other financial accommodations to the Borrower upon the terms and conditions set forth therein;

WHEREAS, in accordance with Section 12.01 of the Existing Credit Agreement, the Borrower has requested, and the Administrative Agent and the Lenders party hereto have agreed, to make certain amendments to the Existing Credit Agreement (as more fully described in Section 1 hereof), in each case, upon the terms and subject to the condition set forth therein; and

NOW, THEREFORE, in consideration of the premises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, pursuant to Section 12.01 of the Existing Loan Agreement, the Borrower, the Guarantors, the Lenders party hereto, the Administrative Agent and the Collateral Agent do hereby agree as follows:

1. **AMENDMENTS TO EXISTING LOAN AGREEMENT**. Subject to the terms and conditions of this Amendment, including, without limitation, the satisfaction of the conditions precedent specified in Section 3 below:

(a) the Existing Loan Agreement is hereby amended to delete the struck text (indicated textually in the same manner as the following example: ~~struck text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the changed pages of the Loan Agreement attached as Exhibit A hereto; and

(b) Exhibit D-1 to the Loan Agreement (Form of Compliance Certificate) is hereby amended by deleting such exhibit in its entirety and replacing it with Exhibit D-1 attached hereto as Exhibit B hereto.

2. **CERTAIN ACKNOWLEDGEMENTS OF THE LOAN PARTIES.**

To induce the Administrative Agent and the Lenders to execute this Amendment, the Borrower and each other Loan Party hereby acknowledges, stipulates, represents, warrants and agrees as follow:

(a) The obligations of the Borrower and each other Loan Party under this Amendment of any nature whatsoever, whether now existing or hereafter arising, are hereby deemed to be "Obligations" for all purposes of the Loan Documents and the term "Obligations" when used in any Loan Document shall include all such obligations hereunder.

(b) As of the Amendment No. 1 Effective Date, the aggregate principal amount of outstanding Initial Loans is $50,000,000.

(c) All DDTL Commitments of the DDTL Lenders terminated on the DDTL Commitment Expiration Date.

3. **CONDITIONS PRECEDENT TO EFFECTIVENESS OF THIS AMENDMENT**. The effectiveness of this Amendment, including, without limitation, the amendments provided in Section 1 above, is subject to the satisfaction of the following conditions precedent (the date on which such conditions are satisfied is herein referred to as the "**Amendment No. 1 Effective Date**"):

(a) The Administrative Agent's receipt of the following in form and substance acceptable to the Administrative Agent and the Lenders, each of which shall be originals or telecopies or ".pdf" or ".tif" copies unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Amendment No. 1 Effective Date (or, in the case of certificates of governmental officials, a recent date before the Amendment No. 1 Effective Date):

(i) one or more counterparts of this Amendment duly executed and delivered by the Borrower, the Guarantors, the Administrative Agent, the Collateral Agent and the Lenders;

(ii) a true and complete copy of the good standing certificate (or equivalent) of each Loan Party under the laws of its jurisdiction of incorporation, organization or formation (or equivalent);

(iii) officer's certificate, dated as of the Amendment No. 1 Effective Date and signed by a Financial Officer of the Borrower, confirming compliance with the conditions precedent set forth in clauses (c) and (d) of this Section 3; and

(iv) a certificate for each Loan Party, dated as of the Amendment No. 1 Effective Date and signed by such Loan Party's secretary or assistant secretary, managing member, general partner or other appropriate person reasonably acceptable to the Administrative Agent, as applicable, which shall certify:

(1) that attached thereto are resolutions, that have not been amended, supplemented, rescinded or modified, of each such Loan Party's board of directors (or other managing body, in the case of a Loan Party that is not a corporation) then in full force and effect expressly and specifically authorizing, to the extent relevant, all aspects of this Amendment applicable to such Loan Party and the execution, delivery and performance of this Amendment (and the performance of the Loan Agreement), in each case to be executed by such Loan Party; and

(2) that either (A) attached thereto is a copy of such Loan Party's Organization Documents as of the Amendment No. 1 Effective Date, including all amendments, modifications and supplements thereto, further certified, in the case of certificate or articles of incorporation or organization or articles of association or other similar constituting document, as of a recent date by the Secretary of State of the state of organization of such Loan Party or (B) such Loan Party's Organizational Documents have not been amended, repealed, modified or restated since the delivery of the certificate described in Section 5.05 of the Existing Loan Agreement on the Closing Date.

(b) Receipt by the Administrative Agent of all reasonable and documented fees and expenses due as of the Amendment No. 1 Effective Date in accordance with the terms of the Loan Agreement (to the extent invoiced one (1) Business Day prior to the Amendment No. 1 Effective Date).

(c) All representations and warranties by any Loan Party contained in this Amendment, in the Loan Agreement and in any other Loan Document are true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of the Amendment No. 1 Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date).

(d) At the time of and immediately after such Amendment No. 1 Effective Date, no Default or Event of Default shall have occurred and be continuing.

4. **REPRESENTATIONS AND WARRANTIES**. The Borrower and each other Loan Party hereby represents and warrants to the Administrative Agent and the Lenders as follows:

(a) Representations and Warranties. Both before and immediately after giving effect to this Amendment, each of the representations and warranties contained in contained in Article VII of the Loan Agreement, and in the other Loan Documents is true and correct in all material respects (provided, that if any representation or warranty is by its terms qualified by concepts of materiality or Material Adverse Effect, such representation and warranty shall be true and correct in all respects) on the date hereof with the same effect as if then made (except to the extent stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date; provided, that if any representation or warranty is by its terms qualified by concepts of materiality or Material Adverse Effect, such representation and warranty shall be true and correct in all respects), and no Default or Event of Default has occurred and is continuing or would immediately result after giving effect to this Amendment.

(b) Binding Effect of Documents. This Amendment has been duly executed and delivered to the Administrative Agent, for the benefit of the Administrative Agent and the Lenders, by the Borrower and each other Loan Party party hereto and, this Amendment and the Loan Documents, as amended by this Amendment, constitute, legal, valid and binding obligations of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors' rights generally, concepts of reasonableness and general equitable principles.

(c) Authorization; No Contravention. The execution and delivery of this Amendment, and the performance of this Amendment, the Existing Loan Agreement as amended hereby and any other Loan Document otherwise modified by this Amendment, by the Borrower and each other Loan Party party hereto or thereto (a) have been duly authorized by all requisite corporate or other organizational powers and, if required under the laws of the jurisdiction of its organization, any provision of the certificate or articles of incorporation or articles of association or other constitutive documents or by-laws, as applicable, stockholder action with respect to the Loan Parties and their Subsidiaries and (b) will not (i) violate (A) any provision of law, statute, rule or regulation, (B) any provision of the certificate or articles of incorporation or articles of association or other constitutive documents or by-laws, as applicable, of the Borrower, any Loan Party or any Subsidiary, (C) any applicable order of any Governmental Authority or (D) any provision of any indenture, agreement or other instrument to which the Borrower or any Subsidiary is a party or by which any of them or any of their property is or may be bound, (ii) be in conflict with, result in a material breach of or constitute (alone or with notice or lapse of time or both) a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such material indenture, agreement or other instrument governing Indebtedness or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Borrower or any Subsidiary (other than any Lien created hereunder or under the Security Documents), except (1) in the case of clauses (b)(i)(A), (b)(i)(C) and (b)(i)(D) to the extent such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect and (2) in the case of clause (b)(iii), to the extent such Lien is expressly permitted under the Loan Agreement.

(d) Governmental Authorization; Other Consents. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the execution and delivery of this Amendment and the other Loan Documents delivered in connection herewith, or the performance by, or enforcement against, any Loan Party of this Amendment, the Existing Loan Agreement, as amended hereby, or any of the Loan Documents, as amended by this Amendment, other than those that have already been obtained and are in full force and effect.

5. **PROVISIONS OF GENERAL APPLICATION.**

(a) Loan Document. The parties hereto acknowledge, confirm and agree that this Amendment shall constitute a Loan Document under the Loan Agreement.

(b) Effect of this Amendment. On and after the Amendment No. 1 Effective Date, each reference in the Loan Agreement to "this Agreement," "herein," "hereto", "hereof" and "hereunder" or words of like import referring to the Loan Agreement, and each reference in each of the other Loan Documents to "the Loan Agreement", "thereunder", "thereof" or words of like import referring to the Loan Agreement, shall mean and be a reference to the Existing Loan Agreement, as amended by this Amendment. Except as expressly amended or modified pursuant hereto, no amendments, modifications, forbearances, consents or waivers to the Existing Loan Agreement or other Loan Documents are intended or implied to constitute the consent of the Administrative Agent or any Lender to any other transaction, consent, forbearance or the waiver by the Administrative Agent, the Collateral Agent or any Lender of any Default or Event of Default. No forbearances, consents, amendments or modifications to the Loan Documents are intended or implied and in all other respects the Loan Documents are hereby specifically ratified, restated and confirmed by the Borrower and each other Loan Party and other parties hereto as of the Amendment No. 1 Effective Date. Nothing in this Amendment is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any Loan Party's Obligations under or in connection with the Loan Agreement or any of the other Loan Documents or to modify, affect or impair the perfection or continuity of the Collateral Agent's security interests in, security titles to or other liens on any Collateral for the Obligations. The Existing Loan Agreement and this Amendment shall be read and construed as one agreement. To the extent of conflict between the terms of this Amendment and the Loan Agreement, the terms of the Loan Agreement shall control.

(c) Reaffirmation. In connection with the execution and delivery of this Amendment, the Borrower and each other Loan Party, as debtors, grantors, pledgors, guarantors, or in other similar capacities in which such Loan Parties grant liens or security interests in their properties, in each case under the Loan Documents, hereby (i) acknowledges, ratifies and reaffirms all of its payment and performance Obligations, contingent or otherwise, under each Loan Document to which it is a party and all such payment Obligations are without offset, defense (other than payment in full in cash of the Obligations excluding contingent and indemnification obligations for which no claim has been asserted) or counterclaim of any kind, nature or description whatsoever; (ii) to the extent such Loan Party granted Liens on or security interests in any of its property pursuant to any such Loan Document (including, but not limited to, the Guaranty and Security Agreement) which has not heretofore been released, hereby ratifies, reaffirms, and re-grants such grant of security and confirms that such Liens and security interests continue to secure the Obligations, and hereby acknowledges and agrees that Collateral Agent, on behalf of itself and the Secured Parties, has and shall continue to have valid, enforceable and perfected first priority liens (subject to certain Permitted Liens) upon and security interests in the Collateral (except as the result of any act or omission or failure to maintain physical possession of such Collateral by the Collateral Agent). Without limiting the foregoing sentence, each Guarantor hereby acknowledges, ratifies and reaffirms the guaranty of the Obligations contained in the Guaranty and Security Agreement.

(d) Costs and Expenses. The Borrower agrees to pay to the Administrative Agent and each Lender, from time to time, upon presentation of a reasonably detailed statement, whether or not all or any of the transactions contemplated by this Amendment are consummated, all reasonable and

documented out-of-pocket costs and expenses of the Administrative Agent and the Lenders (including the reasonable and documented fees and expenses of one primary external legal counsel, one regulatory counsel and one local counsel in each jurisdiction and, solely in the case of a conflict of interest, one additional counsel in each applicable jurisdiction to each affected group similarly situated taken as a whole, to the Administrative Agent and the Lenders) in connection with the preparation, negotiation, execution, delivery or administration of this Amendment and any agreements prepared, negotiated, executed or delivered in connection with the transactions contemplated hereby, all in accordance with the terms and conditions set forth in Section 12.05 of the Loan Agreement.

(e) Binding Effect. This Amendment shall be binding upon and inure to the benefit of each of the Borrower, the other Loan Parties and other parties hereto and their respective successors and assigns.

(f) Severability. All provisions of this Amendment are severable, and the unenforceability or invalidity of any of the provisions of this Amendment shall not affect the validity or enforceability of the remaining provisions of this Amendment. Should any part of this Amendment be held invalid or unenforceable in any jurisdiction, the invalid or unenforceable portion or portions shall be removed (and no more) only in that jurisdiction, and the remainder shall be enforced as fully as possible (removing the minimum amount possible) in that jurisdiction. In lieu of such invalid or unenforceable provision, the parties hereto will negotiate in good faith to add as a part of this Amendment a legal, valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

(g) Reviewed by Attorneys. This Amendment is the result of negotiations among and have been reviewed by counsel to the Administrative Agent, Loan Parties, Lenders and the other parties hereto and are the products of all parties; accordingly, they shall not be construed against the Administrative Agent or Lenders merely because of the Administrative Agent's or Lenders' involvement in their preparation.

(h) Governing Law. THIS AMENDMENT AND THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE HEREOF SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND ANY CLAIM BY ANY PARTY HERETO AGAINST ANY OTHER PARTY HERETO SHALL BE DETERMINED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK.

(i) Incorporation of Loan Agreement Provisions. The provisions contained in Sections 1.02, 12.04, 12.14, 13.01, 13.02, 13.03 and 13.04 of the Loan Agreement are incorporated herein by reference to the same extent as if reproduced herein in their entirety.

(j) Counterparts. Any number of counterparts of this Amendment, including facsimiles and other electronic copies (including .pdf), may be executed by the parties hereto. Each such counterpart shall be, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same agreement.

(k) Entire Agreement. This Amendment, the Loan Agreement and the other Loan Documents contain the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede all prior negotiations, agreements and understandings with respect thereto, both written and oral. This Amendment may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten or oral agreements between the parties. By executing and delivering this Amendment, each Loan Party hereby fully and irrevocably releases and agrees not to assert in any manner any and all claims which such Loan Party may have at law or in equity in relation to all prior written and oral discussions and understandings relating to this Amendment and the subject matter hereof.

[Remainder of page intentionally blank; signature pages follow]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their respective officers thereunto duly authorized, as of the date first above written.

BORROWER: MIMEDX GROUP, INC.

By: /s/ Timothy R. Wright
Name: Timothy R. Wright
Title: Chief Executive Officer

GUARANTORS: MIMEDX TISSUE SERVICES, LLC

By: /s/ Timothy R. Wright
Name: Timothy R. Wright
Title: Chief Executive Officer

MIMEDX PROCESSING SERVICES, LLC

By: /s/ Timothy R. Wright
Name: Timothy R. Wright
Title: Chief Executive Officer

ADMINISTRATIVE AGENT: **HAYFIN SERVICES LLP**, as Administrative Agent and Collateral Agent

By: [***]
Name: [***]
Title: Authorized Signatory

LENDER: **Hayfin DLF III Luxco 1 S.àr.l**, as a Lender

By: [***]__
Name: [***]__
Title: Manager__

Hayfin Sapphire IV Luxco SCA, as a Lender, acting by its managing shareholder Hayfin Saphirre IV Luxco Sarl

By: [***]__
Name: [***]__
Title: Manager__

Hayfin PT Luxco 2 S.àr.l, as a Lender

By: [***]__
Name: [***]__
Title: Manager__

Infinity Holdco Private Debt II S.àr.l, as a Lender

By: [***]__
Name: [***]__
Title: Manager__

Exhibit A

Loan Agreement Changed Pages

[See attached.]

Exhibit B

Exhibit D-1

Form of Compliance Certificate

[See attached.]

~~*Execution Version*~~**EXHIBIT A**

LOAN AGREEMENT

dated as of June 30, 2020

(as amended by that certain Amendment No. 1 to Loan Agreement, dated as of February 28, 2022)

among

MIMEDX GROUP, INC.,
as Borrower,

and the other GUARANTORS from time to time party hereto,

the LENDERS from time to time party hereto,

HAYFIN SERVICES LLP,
as Administrative Agent,

and

HAYFIN SERVICES LLP,
as Collateral Agent

TABLE OF CONTENTS

Page(s)

Article V

CONDITIONS PRECEDENT TO the initial TERM LOANS

Article VI

CONDITIONS PRECEDENT TO the ddtls

Article VII

REPRESENTATIONS AND WARRANTIES

Article VIII

AFFIRMATIVE COVENANTS

Article IX

NEGATIVE COVENANTS

Article X

EVENTS OF DEFAULT

Article XI

THE AGENTS

Article XII

MISCELLANEOUS

Article XIII

JURISDICTION; VENUE, SERVICE OF PROCESS; JURY TRIAL WAIVER

SCHEDULES

EXHIBITS

LOAN AGREEMENT

(c) LOAN AGREEMENT dated as of June 30, 2020 among MIMEDX GROUP, INC., a Florida corporation (the "Borrower"), the Subsidiaries of the Borrower that are Guarantors or become Guarantors hereunder in accordance with Section 8.10 hereof, the Lenders from time to time party hereto, HAYFIN SERVICES LLP, a Delaware limited liability company, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") and as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent", and together with the Administrative Agent, each an "Agent" and collectively the "Agents").

Introductory Statement

(d) WHEREAS, the Borrower has requested that (a) the Initial Term Loan Lenders extend Initial Term Loans to the Borrower on the Closing Date in an aggregate principal amount of $50,000,000 and (b) the DDTL Lenders extend DDTLs from time to time to the Borrower after the Closing Date but prior to the DDTL Commitment Expiration Date in an aggregate principal amount of up to $25,000,000, in each case, the proceeds of which the Borrower will use in accordance with Section 8.12; and

(e) WHEREAS, the applicable Lenders desire to extend the applicable Loans to the Borrower, the Administrative Agent desires to act as administrative agent for the Lenders, and the Collateral Agent desires to act as collateral agent for the Secured Parties, in each case on and subject to the terms and conditions of this Loan Agreement.

(f) NOW, THEREFORE, in consideration of the premises and the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, and intending to be legally bound, the parties hereto agree as follows:

DEFINITIONS

Defined Terms

As used herein, the following terms have the meanings specified in this Section 1.01 unless the context otherwise requires:

"Account Control Agreement" means, with respect to a deposit account, a securities account or commodities account (other than an Excluded Deposit Account), an account control agreement in form and substance reasonably satisfactory to the Collateral Agent, executed and delivered by the Loan Party owning such account, the Collateral Agent, and the applicable depositary bank, securities intermediary or commodities intermediary, as applicable, which account control agreement provides the Collateral Agent with, among other things, "control" (as defined in, and for purposes of, the UCC) over such account and the cash or investment property therein, as applicable.

"Accounts" or "accounts" means "Accounts", as such term is defined in the UCC as in effect on the date hereof.

"Acquisition" means the purchase or other acquisition by a Loan Party or Subsidiary thereof of all of the Capital Stock in, or all or substantially all of the property and assets of (or all or substantially all of the property and assets representing a business unit or

business line of or customer base of) any Person that, upon the consummation thereof, will be wholly-owned (other than director's qualifying shares) directly or indirectly by a Loan Party (including, without limitation, as a result of a merger or consolidation or the purchase or other acquisition of all or a substantial portion of the property and assets of a Person).

"Acquisition Consideration" means the purchase consideration net of cash and Cash Equivalents of the acquired Person (solely to the extent such cash and Cash Equivalents become assets of the Loan Parties and Collateral hereunder and under the Security Documents) for a Permitted Acquisition, whether paid in cash or by exchange of properties or otherwise and whether payable at or prior to the consummation of a Permitted Acquisition or deferred for payment at any future time, whether or not any such future payment is subject to the occurrence of any contingency and includes any and all payments representing the purchase price and any assumption of Indebtedness, and including earn-outs and other agreements to make any payment the amount of which, or the terms of payment of which are, in any respect subject to or contingent upon the revenues, income, cash flow or profits (or the like), or some other economic performance metric, of any Person or business; provided that at any time after the consummation of such Permitted Acquisition all or any portion of such deferred payment or contingent obligation that has permanently expired and is not payable in accordance with the underlying documentation shall not be included in connection with any cap for purposes of determining future Permitted Acquisitions.

"Additional Incremental Term Loan" has the meaning given to such term in Section 2.08(c)(i).

"Additional Incremental Term Loan Lender" has the meaning given to such term in Section 2.08(c)(i).

"Additional Incremental Term Loan Maturity Date" has the meaning given to such term in Section 2.08(c)(i).

"Adjustment Date" means the date of delivery of financial statements pursuant to Section 8.01(b) or (c), as applicable, and corresponding Compliance Certificate required to be delivered pursuant to Section 8.01(d), as applicable.

"Amendment No. 1" means that certain Amendment No. 1 to Loan Agreement, dated as of February 28, 2022, by and among the Borrower, the Guarantors party thereto, the Lenders party thereto and the Administrative Agent.

"Amendment No. 1 Effective Date" has the meaning assigned to such term in Amendment No. 1 (it being understood and agreed that the Amendment No. 1 Effective Date occurred on February 28, 2022).

"Administrative Agent" has the meaning set forth in the preamble to this Loan Agreement.

"Administrative Questionnaire" shall mean an Administrative Questionnaire (in which the Person completing such Administrative Questionnaire shall designate one or more credit contacts to whom all syndicate-level information (which may contain MNPI about the Loan Parties, their Subsidiaries and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable Requirements of Laws, including Federal and state securities laws) in the form supplied from time to time by the Administrative Agent.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliate" means, with respect to any Person, (i) any other Person that directly, or indirectly (through one or more intermediaries or otherwise), Controls or is Controlled by or is under common Control with such Person, and (ii) such Person's officers, directors and other Persons functioning in substantially similar roles. Notwithstanding anything herein to the contrary, neither Agent nor any Lender, nor any of their respective Affiliates, shall be deemed an Affiliate of any Loan Party solely by virtue of the transactions contemplated by this Loan Agreement and the other Loan Documents.

"Agents" and "Agent" each has the meaning set forth in the preamble to this Loan Agreement.

"Aggregate Incremental Amount" shall mean, at any time, the sum of the aggregate principal amount of all Incremental Term Loans (whether or not then outstanding) and, to the extent not yet terminated, unfunded Incremental Term Loan Commitments, in each case, incurred at or prior to such time.

"Alternative Interest Rate Election Event" has the meaning given to such term in Section 2.06(c).

"Anti-Terrorism Laws" has the meaning given to such term in Section 7.29.

"Applicable Laws" means, as to any Person, any Laws applicable to, or otherwise binding upon, such Person or any of its property, products, business, assets or operations, or to which such Person or any of its property, products, business, assets or operations is subject.

"Applicable Margin" means

with respect to any Incremental Term Loan that was not incurred as an increase to the Initial Loans, the rate or rates per annum specified in the applicable Incremental Joinder Agreement; and

with respect to the Initial Loans, (i) for any day on and after the Amendment No. 1 Effective Date, 6.75%, and (ii) for any day prior to the Amendment No. 1 Effective Date, the rate per annum set forth below under the caption "Applicable Spread" based upon the Total Net Leverage Ratio as of the last day of the most recently ended fiscal quarter for which a Compliance Certificate have been delivered pursuant to Section 8.01(d); provided that, until the first Adjustment Date that occurs after December 31, 2020, the "Applicable Rate" shall be the rate per annum set forth below in Category 1:

Total Net Leverage Ratio	Applicable Spread
Category 1	
Greater than or equal to 2.00:1.00	6.75%
Category 2	
Less than 2.00:1.00 but greater than or equal to 1.00:1.00	6.50%
Category 3	
Less than 1.00:1.00	6.00%

Any increase or decrease in the Applicable Margin with respect to the Initial Loans resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date of delivery the applicable Compliance Certificate pursuant to Section 8.01(d) showing such increase or decrease, if any, following the completion of each applicable fiscal quarter; provided, however, that if the applicable Compliance Certificate is not delivered when due in accordance with Section 8.01(d) or an Event of Default has occurred and is continuing, then Category 1 shall apply in respect of the Initial Loans as of the date (x) after the date on which such Compliance Certificate was required to have been delivered pursuant to Section 8.01(d) or (y) such Event of Default has occurred, as applicable, and shall remain in effect until the date on which such Compliance Certificate is so delivered or such Event of Default is no longer continuing, as applicable.

In the event that any financial statement delivered on an Adjustment Date or any Compliance Certificate delivered pursuant to Section 8.01(d), as applicable, is inaccurate, and such inaccuracy, if corrected, would have led to the imposition of a higher Applicable Margin for any period than the Applicable Margin applied for that period, then (i) Borrower shall immediately deliver to Administrative Agent a corrected financial statement and a corrected Compliance Certificate for that period (the "Corrected Financials Date"), (ii) the Applicable Margin shall be determined based on the corrected Compliance Certificate for that period, and (iii) Borrower shall immediately pay to Administrative Agent (for the account of the Lenders that hold the Commitments and Loans at the time such payment is received, regardless of whether those Lenders held the Commitments and Loans during the relevant period) the accrued additional interest owing as a result of such increased Applicable Margin for that period; provided, for the avoidance of doubt, such deficiency shall be due and payable as at such Corrected Financials Date and no Default or Event of Default under Section 10.01(a) shall be deemed to have occur with respect to such deficiency prior to such date (but if not so paid, shall constitute an Event of Default immediately thereafter). This paragraph shall not limit the rights of Administrative Agent or the Lenders with respect to Section 2.05(c) and Article X hereof, and shall survive the termination of this Loan Agreement until the payment in full in cash of the aggregate outstanding principal balance of the Loans.

"Approved Fund" means any Person (other than a natural person) that is or will be engaged in making, purchasing, holding or investing in one or more debt securities, bank loans, other commercial loans, or other similar extensions of credit in the Ordinary Course of Business, and which Person either: (a) is administered, managed, advised or underwritten by (i) a Lender, (ii) an Affiliate of a Lender or (iii) an entity or an Affiliate of an entity that administers, manages, advises or underwrites a Lender; (b) purchases, holds or invests in, or was formed for the purpose of purchasing, holding or investing in, one or more debt securities, bank loans, other commercial loans, or other similar extensions of credit originated by (i) a Lender or (ii) an Affiliate of a Lender or (c) a Hayfin Party.

"Assignment and Acceptance" means an assignment and acceptance substantially in the form of Exhibit F or such other form as acceptable to the Administrative Agent.

"Assignment of Claims Act" means (i) Title 31, United States Code § 3727, and Title 41, United States Code § 15, in each case as revised or amended, and any rules or regulations issued pursuant thereto, and (ii) all other federal and state laws, rules and regulations governing the assignment of government contracts or claims against a Governmental Authority.

"Attributable Indebtedness" means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear as a liability on a balance sheet of such Person prepared as of such date in accordance with GAAP.

"Authorized Officer" means, with respect to any Person, the president, chief executive officer, chief financial officer (including interim chief financial officer), chief operating officer or secretary of such Person (or a manager, in the case of a Person that is a limited liability company), provided that, with respect to financial reporting and other financial matters (including Compliance Certificates, Excess Cash Flow, and Solvency Certificates), "Authorized Officer" means the chief financial officer (including interim chief financial officer) of the applicable Loan Party or such other officer or similar Person performing such duties for such Loan Party.

"Available Amount" means, on any date of determination (each a "Reference Date"), an amount equal to, without duplication:

Retained ECF Amount; *minus*

the aggregate amount of Investments made in reliance on Section 9.05(s). Restricted Payments made in reliance on Section 9.06(h) and payments of Indebtedness that has been contractually subordinated in right of payment to the Obligations in reliance on Section 9.07(a)(ii) during the period from the Closing Date through and including such Reference 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 or rule 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, as amended, modified, succeeded or replaced from time to time.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Board" means the Board of Governors of the Federal Reserve System of the United States, or any successor thereto.

"Board of Directors" has the meaning given to such term in Section 8.21.

"Borrower" has the meaning set forth in the preamble to this Loan Agreement.

"Borrowing" means a borrowing hereunder consisting of Loans made to or for the benefit of Borrower on the same day by Lenders pursuant to this Loan Agreement.

"Borrowing Notice" means a written notice given by the Borrower to Administrative Agent pursuant to Section 2.02, in the form of Exhibit H.

"Budget" has the meaning given to such term in Section 8.01(f).

"Business" means the business of developing, licensing, acquiring, manufacturing, commercializing and marketing regenerative biologics utilizing human placental allografts, and any business reasonably related, ancillary or incidental thereto.

"Business Day" means (a) any day that is not a Saturday, Sunday or other day on which commercial banks in the City of New York are required, authorized or otherwise permitted by law or other governmental actions to close, and (b) with respect to any notices or determinations in connection with any LIBOR Rate established hereunder, any day that is also a day for trading by and between banks in Dollar deposits in the London Interbank Eurodollar market.

"Calculation Date" has the meaning given to such term in Section 9.13(b).

"Capital Expenditures" shall mean, with respect to any Person, all expenditures by such Person which should be capitalized in accordance with GAAP and, without duplication, the amount of Capitalized Lease Obligations incurred by such Person.

"Capital Stock" means any and all shares, interests, participations, units or other equivalents (however designated) of capital stock of a corporation, membership interests in a limited liability company, partnership interests of a limited partnership, any and all equivalent ownership interests in a Person, and in each case any and all warrants, rights or options to purchase, and all conversion or exchange rights, voting rights, calls or rights of any character with respect to, any of the foregoing but excluding any debt securities convertible into such Capital Stock.

"Capitalized Lease Obligations" means, as applied to any Person, subject to Section 1.03, all obligations under Capitalized Leases of such Person or any of its Subsidiaries, in each case taken at the amount thereof accounted for as liabilities on the balance sheet (excluding the footnotes thereto) of such Person in accordance with GAAP.

"Capitalized Leases" means, as applied to any Person, subject to Section 1.03, all leases of property (real or personal) that have been or should be, in accordance with GAAP, classified as capitalized leases on the balance sheet of such Person or any of its Subsidiaries, on a consolidated basis.

"Cash Equivalents" means:

any direct obligation of, or unconditional guaranty by, the United States of America (or any agency or political subdivision thereof, to the extent such obligations are supported by the full faith and credit of the United States of America) maturing not more than one year after the date of acquisition thereof;

commercial paper maturing not more than one hundred eighty (180) days from the date of issue and issued by a corporation (other than an Affiliate of any Loan Party) organized under the laws of any state of the United States of America or of the District of Columbia and, at the time of acquisition thereof, rated A 1 or higher by S&P or P 1 or higher by Moody's;

any Dollar denominated certificate of deposit, time deposit or bankers' acceptance, maturing not more than one year after its date of issuance, which is issued by a bank organized under the laws of the United States of America (or any state thereof) which has, at the time of acquisition of such certificate of deposit, time deposit or bankers' acceptance, as applicable, (i) a credit rating of A or higher from S&P or A-2 or higher from Moody's and (ii) a combined capital and surplus greater than $500,000,000;

any repurchase agreement having a term of thirty (30) days or less entered into with any commercial banking institution satisfying, at the time of acquisition thereof, the criteria set forth in clause (c)(i) which (i) is secured by a fully perfected security interest in any obligation of the type described in clause (a), and (ii) has a market value at the time such repurchase agreement is entered into of not less than 100% of the repurchase obligation of such commercial banking institution thereunder;

mutual funds with assets in excess of $5,000,000, substantially all of which are of the type described in clauses (a) through (d) of this definition; and

other short term liquid investments approved in writing by the Administrative Agent.

"Cash Management Agreement" shall mean any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.

"Cash Management Bank" shall mean (x) any Person that is a Lender or an Agent (or an Affiliate of a Lender or an Agent), (y) any person who was a Lender or an Agent (or any Affiliate of a Lender or an Agent) at the time it entered into a Cash Management Agreement, in each case, in its capacity as a party to such Cash Management Agreement, or (z) with the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed), each other Person with whom the Loan Party has entered into a Cash Management Agreement provided that if such Person is not a Lender or an Agent, by accepting the benefits of this Loan Agreement, such Person shall be deemed to have (i) appointed the Collateral Agent as its agent under the applicable Loan Documents and (ii) agrees to be bound by the provisions of Sections 12.05(a), 12.14 and 12.25 as if it were a Lender.

"Casualty Event" means the damage, destruction or condemnation, as the case may be, of property of any Person or any of its Subsidiaries.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601, et seq.), as amended, and all rules, regulations and binding standards issued thereunder.

"Change in Law" means the occurrence, after the Closing Date, of any of the following: (a) the adoption, change in or taking effect of any law, rule or regulation or in the

administration, implementation, interpretation or application thereof by any Governmental Authority; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Applicable Law) and (y) all requests, rules, regulations, guidelines, interpretations 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 (whether or not having the force of law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

"Change of Control" means the occurrence of any of the following:

any Person, "person" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), shall at any time have acquired direct or indirect beneficial ownership of a percentage of the voting power of the outstanding Voting Stock of the Borrower that exceeds 35% thereof; or

any sale of all or substantially all of the property or assets of the Borrower other than in a sale or transfer to another Loan Party.

"Class" when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Loans or Incremental Term Loans of any series established as a separate "Class " pursuant to Section 2.08 (b) any Commitment, refers to whether such Commitment is an Initial Term Loan Commitment, DDTL Commitment or an Incremental Term Loan Commitment of any series established as a separate "Class" pursuant to Section 2.08 and (c) any Lender, refers to whether such Lender has a Loan or Commitment of a particular Class. The Initial Term Loans and the DDTLs are a single Class for all purposes under this Loan Agreement.

"Closing Date" means the first date upon which all conditions precedent listed in Article V have been satisfied or waived pursuant to the terms thereof.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and all rules, regulations, standards and guidelines issued thereunder. Section references to the Code are to the Code as in effect at the date of this Loan Agreement, and any subsequent provisions of the Code amendatory thereof, supplemental thereto or substituted therefor.

"Collateral" means any assets of any Loan Party or other assets upon which the Collateral Agent and/or the Secured Parties has been granted a Lien in connection with this Loan Agreement, including pursuant to the Security Documents.

"Collateral Agent" has the meaning set forth in the preamble to this Loan Agreement.

"Collateral Assignee" has the meaning given to such term in Section 12.06(d).

"Collections" means all cash, checks, credit card slips or receipts, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds) of the Loan Parties.

"Commitment" means, the Initial Term Loan Commitment, the DDTL Commitment and any Incremental Term Loan Commitment.

"Competitor" has the meaning assigned to such term in the definition of "Disqualified Institution".

"Compliance Certificate" means a certificate duly completed and executed by an Authorized Officer of the Borrower substantially in the form of Exhibit D-1, together with such changes thereto or departures therefrom as the Administrative Agent may reasonably request (in connection with any operational or administrative function of the Administrative Agent or to reflect any amendment or modification of this Loan Agreement or any other Loan Document) or approve from time to time.

"Confidential Information" has the meaning given to such term in Section 12.18.

"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.

"Consolidated Adjusted EBITDA" means, for a specified period, an amount determined for the Consolidated Companies equal to, on a trailing twelve month basis (including, subject to the established Consolidated Adjusted EBITDA amounts provided below, any months that precede the Closing Date):

Consolidated Net Income of the Consolidated Companies, plus

the sum of the following amounts, without duplication, to the extent deducted (other than in respect of clauses (ix), (x) and (xiv)) in calculating such Consolidated Net Income:

Consolidated Interest Expense during such measurement period,

Taxes paid and provisions for Taxes based on income, profits or capital of such Person and its subsidiaries, including, in each case, federal, state, provincial, local, foreign, unitary, franchise, excise, property, withholding and similar Taxes, including any penalties and interest,

any impairment charge or asset write-off charge and total depreciation expense,

total amortization expense, including amortization, impairment or write-off of intangibles,

any charges, losses, reserves or expenses related to signing, retention, relocation, recruiting or completion bonuses or recruiting costs, severance costs, transition costs, curtailments or modifications to pension and post-employment, retirement or employee benefit plans (including any settlement of pension liabilities), and restructuring charges, expenses and reserves; provided that the amounts added to Consolidated Adjusted EBITDA pursuant to this clause (v) and clauses (b)(vi)(B), (b)(viii) and (b)(xiv) of the definition of Consolidated Adjusted EBITDA shall not, in the aggregate, exceed 20% of Consolidated Adjusted EBITDA for any relevant Test Period (calculated prior to any adjustments pursuant to such clauses),

any (A) extraordinary (as defined under GAAP prior to FASB Update No. 2015-01) expenses or charges and (B) any unusual or non-recurring expenses or charges;

provided that the amounts added to Consolidated Adjusted EBITDA pursuant to this clause (vi)(B) and clauses (b)(v), (b)(viii) and (b)(xiv) of the definition of Consolidated Adjusted EBITDA shall not, in the aggregate, exceed 20% of Consolidated Adjusted EBITDA for any relevant Test Period (calculated prior to any adjustments pursuant to such clauses),

other non-cash charges and expenses reducing Consolidated Net Income (excluding any such non-cash item to the extent that it represents an accrual or reserve for potential cash items in any future period or amortization of a prepaid cash item that was paid in a prior period) including, without limitation, non-cash compensation expense in respect of stock option and incentive plans, impairment charges and other write offs of intangible assets and goodwill,

non-capitalized costs in connection with financings, acquisitions, investments, dispositions, private or public offerings of equity securities or the establishment of joint ventures, in each case whether or not consummated; provided that the amounts added to Consolidated Adjusted EBITDA pursuant to this clause (viii) and clauses (b)(v), (b)(vi)(B) and (b)(xiv) of the definition of Consolidated Adjusted EBITDA shall not, in the aggregate, exceed 20% of Consolidated Adjusted EBITDA for any relevant Test Period (calculated prior to any adjustments pursuant to such clauses),

fees and expenses incurred in connection with the consummation of the Transactions and any refinancing, extension, waiver, forbearance, amendment, restatement, amendment and restatement, supplement or other modification of the Loan Documents (in each case, whether or not consummated); provided that amounts added back under this clause (ix) in respect of costs, fees and expenses arising in connection with the Transactions shall not exceed $5,000,000 in the aggregate for the relevant Test Period,

the amount of any expense, charge or loss, in each case that is actually reimbursed or reasonably expected to be reimbursed within 365 days by third parties pursuant to indemnification or reimbursement provisions or similar agreements or insurance; provided that (x) if such amount is not so reimbursed or received (or if the amount reimbursed or received is less than the amount added back pursuant to this clause (xi)) by the Borrower or its Subsidiaries within such 365-day period applicable thereto, then such amount (or unreimbursed portion of such amount) shall be subtracted in subsequent periods to the extent applicable and (y) any such amount shall not be included in any subsequent period in which such amount is actually reimbursed or received,

any cost, expense or other charge (including any legal fees and expenses) associated with investigations by Governmental Authorities, any litigation or as a result of the Inaccurate Information (including in connection with the restatement of historical financial statements) or payment of any actual legal settlement, fine, judgment or order in respect of the foregoing,

cash receipts (or any netting arrangements resulting in reduced cash expenses) not included in Consolidated Adjusted EBITDA in any period solely to the extent that the corresponding non-cash gains relating to such receipts were deducted in the calculation of Consolidated Adjusted EBITDA pursuant to paragraph (c)(i) below for any previous period and not added back,

amounts of indemnities and expense reimbursement paid or accrued to directors and officers, in each case during such period, including payment for directors and officers insurance policies in an amount not to exceed $1,500,000 in the aggregate;

the amount of net cost savings and operating expense reductions projected by the Borrower in good faith (calculated on a pro forma basis as though such items had been realized on the first day of such period) as a result of actual actions taken prior to the last day of the applicable Test Period in connection with any acquisition, investment, disposition, unit opening or closing or restructuring or cost savings initiative by the Borrower or any of its Subsidiaries, net of the amount of actual benefits realized during such period that are otherwise included in the calculation of Consolidated Adjusted EBITDA from such actions, and only to the extent that the same have been realized or are reasonably expected to be realized within twelve (12) months of the related acquisition, investment, disposition or restructuring or cost-savings initiative; provided that (A) an Authorized Officer of Borrower shall have provided a reasonably detailed statement or schedule of such cost savings and operating expense reductions and shall have certified to the Administrative Agent that (x) such cost savings are reasonably identifiable, reasonably attributable to the actions specified and reasonably anticipated to result from such actions and (y) such actions have been taken and are ongoing, and the benefits resulting therefrom are anticipated by Borrower to be realized within twelve (12) months of the end of such Test Period and (B) the amounts added to Consolidated Adjusted EBITDA pursuant to this clause (xiv) and clauses (b)(v), (b)(vi)(B) and (b)(viii) of the definition of Consolidated Adjusted EBITDA shall not, in the aggregate, exceed 20% of Consolidated Adjusted EBITDA for any relevant Test Period (calculated prior to any adjustments pursuant to such clauses),

any (A) non-cash costs incurred by the Consolidated Companies pursuant to any management equity or equity-based plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or stockholders agreement, and (B) cash costs in respect thereto, in the case of this clause (B), to the extent such costs or expenses are funded with net cash proceeds of an issuance of Capital Stock (but not Disqualified Capital Stock) of the Borrower, and

accruals and reserves that are established or adjusted (A) within 12 months after the Closing Date and that are so required to be established or adjusted in accordance with GAAP or (B) after the closing of any acquisition that are so required as a result of such acquisition in accordance with GAAP, or changes as a result of the adoption or modification of accounting policies, whether effected through a cumulative effect adjustment, restatement or a retroactive application; minus

to the extent increasing Consolidated Net Income, the sum of, without duplication:

amounts for other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash item to the extent it represents the reversal of an accrual or reserve for potential cash item in any prior period); and

extraordinary, unusual or non-recurring gains received during the specified period.

Consolidated Adjusted EBITDA for each of the following periods set forth below shall be as set forth opposite such period, but in each case subject to approval by the Administrative Agent (in its reasonable discretion) of the manner in which such amounts were calculated:

Historical Consolidated Adjusted EBITDA figures:

Fiscal Quarter ended September 30, 2019	$7,500,000
Fiscal Quarter ended December 31, 2019	$17,100,000
Fiscal Quarter ended March 31, 2020	$3,100,000

"Consolidated Companies" means the Loan Parties and their Subsidiaries on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, for the Consolidated Companies, the sum of all interest (net of interest income) in respect of Indebtedness (including, without limitation, the interest component of any payments in respect of Capitalized Lease Obligations) accrued or capitalized during such period (whether or not actually paid during such period) and any commitment fees in respect of such Indebtedness, including, without limitation, the Unused DDTL Commitment Fee.

"Consolidated Net Income" means, for any specified period, the consolidated net income (or deficit) of the Consolidated Companies, after deduction of all expenses, taxes, and other proper charges, determined in accordance with past practice and in accordance with GAAP, after eliminating therefrom all extraordinary nonrecurring items of income or loss, provided that there shall be excluded: (a) the income (or loss) of any Person in which any Person (other than any of the Consolidated Companies) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid in cash to any of the Consolidated Companies by such Person during such specified period, (b) the income (or loss) of any Person accrued prior to the date it becomes a consolidated Subsidiary of any of the Consolidated Companies or is merged into or consolidated with any of the Consolidated Companies or such Person's assets are acquired by any of the Consolidated Companies, (c) the income of any consolidated Subsidiary of any of the Consolidated Companies to the extent that the declaration or payment of dividends or other distributions by that consolidated Subsidiary of that income is not at the time permitted by operation of the terms of any Contractual Obligation or Applicable Law applicable to that consolidated Subsidiary, except to the extent of the amount of dividends or other distributions actually paid in cash to any of the Consolidated Companies by such Person during such specified period, (d) any restoration to income of any contingency reserve, except to the extent that provision for such reserve was made out of income accrued during such period, (e) any gain attributable to the write-up of any asset and any loss attributable to the write-down of any asset; (f) any net gain from the collection of the proceeds of life insurance policies, (g) any net gain arising from the acquisition of any securities, or the extinguishment, under GAAP, of any Indebtedness, of any of the Consolidated Companies, (h) in the case of a successor to any consolidated Subsidiary of any of the Consolidated Companies by consolidation or merger or as a transferee of its assets, any earnings of such successor prior to such consolidation, merger or transfer of asset (unless such successor was a consolidated Subsidiary of any of the Consolidated Companies prior to such consolidation, merger or transfer), (i) any deferred credit representing the excess of equity in any consolidated Subsidiary of any of the Consolidated Companies at the date of acquisition of such consolidated Subsidiary over the cost to the Consolidated Companies

of the investment in such Subsidiary, (j) the cumulative effect of any change in GAAP during such period, and (k) any noncash FASB ASC 815 income (or loss) related to hedging activities.

"Consolidated Total Ineligible Product Revenue" shall mean, for any Test Period, the gross revenue of the Borrower and its Subsidiaries from the sale of Ineligible Products during such Test Period, determined on a consolidated basis in accordance with GAAP (it being understood and agreed that if a Product constituted an Ineligible Product for only a portion of such Test Period, only the gross revenue from the sale of such Ineligible Product during the time such Product was an Ineligible Product during such Test Period shall constitute "Consolidated Total Ineligible Product Revenue").

"Consolidated Total Net Sales" shall mean, for any Test Period, (i) Consolidated Total Revenue for such Test Period *minus* (ii) the sum of (x) Consolidated Total Net Sales Deductions for such Test Period and (y) Consolidated Total Ineligible Product Revenue for such Test Period.

"Consolidated Total Net Sales Deductions" shall mean, for any Test Period, the sum of the following expenses of the Borrower and its Subsidiaries on a consolidated basis, in each case attributable to the sale of any Product in such Test Period, as accrued (or as would be accrued) on financial statements prepared in accordance with GAAP: (a) billbacks, chargebacks, customer adjustments (including payment discounts and customer pricing), channel or trade discounts, quantity, cash discounts, off invoice discounts, government and other third-party rebates with respect to such Product; (b) cash returns, cash refunds, allowances or credits, including those in respect of rejection, defects, damaged item credits, sales returns, retroactive price reductions, shelf-stock adjustments, invoice errors, and replacement costs with respect to such Product; (c) Group Purchasing Organization (GPO) fees, including performance allowances and volume incentives; and (d) such other discounts and other deductions customary in the trade.

"Consolidated Total Revenue" shall mean, for any Test Period, the gross revenue of the Borrower and its Subsidiaries from the sale of Products during such Test Period, determined on a consolidated basis in accordance with GAAP.

"Consolidated Working Capital" means, as of any date of determination, the excess of (a) the sum of all amounts (other than cash and current tax assets) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Consolidated Companies at such date over (b) the sum of all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Consolidated Companies on such date, including deferred revenue but excluding, without duplication, (i) the current portion of any Indebtedness, (ii) all Indebtedness consisting of the Loans to the extent otherwise included therein, (iii) the current portion of interest and (iv) the current portion of current and deferred income Taxes.

"Contingent Liability" means, for any Person, any agreement, undertaking or arrangement by which such Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the Indebtedness of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the Capital Stock of any other Person. The amount of any Contingent Liability shall (subject to any limitation set forth therein) be determined in accordance with GAAP.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person, or any agreement, instrument, permit, license or other undertaking to which such Person is a party or by which such Person or any of its property is bound or subject.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise; provided that, for purposes of this definition, any Person which owns directly or indirectly ten percent (10%) or more of the Capital Stock having ordinary voting power for the election of directors or other members of the governing body of a Person, or ten percent (10%) or more of the Capital Stock of a Person (other than as a limited partner of such Person) shall be deemed an Affiliate of such Person. The terms "Controlling" and "Controlled" have meanings correlative thereto.

"Copyright Security Agreements" means any copyright security agreement entered into on or after the Closing Date (as required by this Loan Agreement or any other Loan Document), in each case as amended, supplemented or otherwise modified, renewed or replaced from time to time.

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Customer" means and includes the account debtor with respect to any Account and/or the prospective purchaser of goods, services or both with respect to any contract or contract right, and/or any party who enters into or proposes to enter into any contract or other arrangement with a Person, pursuant to which such Person is to deliver any personal property or perform any services.

"DACA Compliance Date" means the earlier of (i) the first date a deposit account of any Loan Party is subject to an Account Control Agreement and (ii) thirty (30) days after the Closing Date.

"DDTL" has the meaning set forth in Section 2.01(b).

"DDTL Commitment" means, in the case of each DDTL Lender as of the date hereof, the amount set forth opposite such DDTL Lender's name on Schedule 1.01 under the heading "DDTL Commitment", as the same may be changed from time to time pursuant to the terms hereof.

"DDTL Commitment Expiration Date" means June 30, 2021

"DDTL Lender" means any Lender with DDTL Commitment or an outstanding DDTL.

"Default" means any event, act or condition that, with notice or lapse of time, or both, would constitute an Event of Default.

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"Defaulting Lender" means, any Lender that (a) has failed to fund any portion of the Loans required to be funded by it hereunder within five () Business Days of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent or any Lender any other amount required to be paid by it hereunder within five (5) Business Days of the date when due, (c) has notified the Borrower, the Administrative Agent or any Lender in writing that it does not intend to comply with its funding obligations hereunder, or generally under other agreements in which it commits to extend credit, or has made a public statement to that effect, (d) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower, in a manner reasonably satisfactory to the Administrative Agent or the Borrower, as applicable, that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (d) upon receipt of such written confirmation by the Administrative Agent and the Borrower) or (e) has, or has a direct or indirect parent company that has, (i) become the subject of an Insolvency Proceeding or a Bail-In Action, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (e) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Borrower and each Lender; provided that, for the avoidance of doubt, such a determination by the Administrative Agent shall not be required for a Lender to constitute a Defaulting Lender.

"Disposition" means, with respect to any Person, any sale, transfer, license, sub-license, lease, sale and leaseback, contribution or other conveyance (including by way of merger, condemnation, casualty event or division of a limited liability company) of any of such Person's or any of such Person's Subsidiaries' assets or properties (including Capital Stock of Subsidiaries, but excluding any Capital Stock of the Borrower) to any other Person in a single transaction or series of transactions. "Dispose" shall have a correlative meaning consistent with the foregoing.

"Disqualified Capital Stock" means any Capital Stock that, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is exchangeable) or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock), in whole or in part, (c) provides for the scheduled payment of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date; provided, that (i) if such Capital Stock is issued pursuant to a plan for the benefit of employees of any Loan Party or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by a Loan Party in order to satisfy applicable statutory or

regulatory obligations and (ii) only the portion of the Capital Stock meeting one of the foregoing clauses (a) through (d) prior to the date that is ninety-one (91) days after the Latest Maturity Date will be deemed to be Disqualified Capital Stock.

"Disqualified Institution" means, as of any date, competitors of the Borrower or any of its Subsidiaries that are in the same or a similar line of business and, in each case, identified in writing to the Administrative Agent from time to time prior to such date (each such entity, a "Competitor") and Affiliates of Competitors to the extent such affiliates are reasonably identifiable (on the basis of the similarity of such Affiliate's name to the name of an entity so identified in writing) or designated in writing by the Borrower from time to time prior to such date and to the extent such Affiliates are not bona fide debt funds or investment vehicles that are primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business with appropriate information barriers in place; provided, that no such updates shall be deemed to retroactively disqualify any parties that have previously acquired an assignment or participation interest or any party for which the applicable "Trade Date" with respect to an assignment or participation interest has occurred in respect of the Loans in compliance with the provisions of this Loan Agreement from continuing to hold or vote such previously acquired assignments and participations or from closing an assignment or participation interest sale for which the applicable "Trade Date" has previously occurred on the terms set forth herein for Lenders that are not Disqualified Institutions; provided, that, and notwithstanding the foregoing, no Hayfin Party shall be considered a Disqualified Institution under this Loan Agreement.

"Dollars" and "$" means dollars in lawful currency of the United States of America.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of the U.S., any state thereof or the District of Columbia.

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

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

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

"Employee Benefit Plan" means any employee benefit plan, as defined in Section 3(3) of ERISA, which is contributed to by (or to which there is an obligation to contribute of) any Loan Party or any ERISA Affiliate.

"Environmental Claims" means any and all actions (including administrative, regulatory and judicial actions), suits, demands, demand letters, claims, liens, notices of noncompliance or violation, requests for information, warning letters, notices of deficiencies or investigations (other than internal reports prepared by the Loan Parties) in the ordinary course of such Person's business arising under or related to any alleged violation of or non-compliance with any Environmental Law or any permit issued, or any approval given, under any Environmental Law, including (i) any actual or threatened claims or assertions of liability by any

Governmental Authorities for enforcement, cleanup, removal, response, fines, penalties, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any claims or assertions of liability by any third party seeking damages, contribution, indemnification, cost recovery, fines, penalties, compensation or injunctive relief resulting from the Release or threatened Release of Hazardous Materials or arising from any alleged violation of Environmental Law.

"Environmental Law" means any applicable federal, state, foreign, local or municipal statute, law (including the common law), rule, regulation, order, ordinance, code, decree, or other binding written requirement of any Governmental Authority now or hereafter in effect, in each case as amended, and any binding judicial interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, relating to or imposing liability or standards of conduct concerning protection of the environment or natural resources, or the protection of human health or safety (from exposure to Hazardous Materials), or occupational health and safety (from exposure to Hazardous Materials), including public environmental notification requirements.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder. Section references to ERISA are to ERISA as in effect at the date of this Loan Agreement and any subsequent provisions of ERISA amendatory thereof, supplemental thereto or substituted therefor.

"ERISA Affiliate" means each person (as defined in Section 3(9) of ERISA) that, together with any Loan Party or any Subsidiary of any Loan Party, is, or within the last six (6) years was, treated as a "single employer" within the meaning of Section 4001(b) of ERISA, and for the purpose of Section 302 of ERISA and/or Section 412, 4971, 4977 and/or each "applicable section" under Section 414(t)(2) of the Code, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

"ERISA Event" means any of the following: (i) a Reportable Event with respect to any Plan; (ii) any Plan is insolvent or in endangered or critical status within the meaning of Section 432 of the Code or Section 4241 or 4245 of ERISA or notice of any such insolvency has been given to any of the Loan Parties or any ERISA Affiliate; (iii) any Plan is in "at risk" status (as defined in Section 430 of the Code or Section 303 of ERISA); (iv) any Plan (other than a Multiemployer Plan) has failed to satisfy the minimum funding standard of Section 412 of the Code or Section 302 of ERISA (whether or not waived in accordance with Section 412(c) of the Code or Section 302(c) of ERISA), or any of the Loan Parties or any Subsidiary of any Loan Party has applied for or received a waiver of the minimum funding standard or an extension of any amortization period within the meaning of Section 412 of the Code or Section 302, 303 or 304 of ERISA with respect to any Plan; (v) any Loan Party or any ERISA Affiliate fails to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or to make any required contribution to a Multiemployer Plan when due; (vi) any of the Loan Parties, any of their respective Subsidiaries, or, to the extent applicable to the Loan Parties or any of their respective Subsidiaries, any ERISA Affiliate incurs (or is reasonably expected to incur) any liability to or on account of a Plan pursuant to Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201, 4204 or 4212 of ERISA or Section 436(f), 4971, 4975 or 4980 of the Code or is notified in writing that it will incur any liability under any of the foregoing Sections with respect to any Plan; (vii) any proceeding is instituted (or is reasonably likely to be instituted) to terminate any Plan or to appoint a trustee to administer any Plan, or any written notice of any such proceeding is given to any of the Loan Parties or any ERISA Affiliate; (viii) the imposition on account of any Plan of any Lien under the Code or ERISA on the assets of any of the Loan Parties or any ERISA Affiliate or notification to any of the Loan Parties or any ERISA Affiliate that such a Lien will be imposed on the assets of any of the Loan Parties or any ERISA Affiliate; (ix) the occurrence of an event, circumstance, transaction, or failure that results in liability to the

Loan Parties or any ERISA Affiliate under Title I of ERISA or a tax under any of Sections 4971 through 5000 of the Code; or (x) the complete or partial withdrawal of any of the Loan Parties or any ERISA Affiliate from a Multiemployer Plan that results in or is reasonably expect to result in the imposition of Withdrawal Liability or insolvency under Title IV of ERISA of any Multiemployer Plan."

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

"Eurodollar" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the LIBOR Rate but does not include any Loan or Borrowing bearing interest at a rate determined by reference to the definition of "Prime Rate."

"Event of Default" has the meaning given to such term in Article X.

"Excess Cash Flow" means, for any fiscal year of the Consolidated Companies, an amount equal to:

the sum, without duplication, of (i) Consolidated Adjusted EBITDA for such fiscal year without giving effect to clause (b)(xiv) thereof, (ii) the net decrease, if any, in Consolidated Working Capital of the Consolidated Companies during such fiscal year, (iii) the net cash gains during such fiscal year from the sale or disposition of assets of the Consolidated Companies outside of the ordinary course of business, to the extent not included in arriving at such Consolidated Adjusted EBITDA and to the extent not otherwise included as a mandatory prepayment and (iv) cash Extraordinary Receipts to the extent such items are not included in the calculation of Consolidated Adjusted EBITDA for such fiscal year; minus

the sum of, without duplication;

Consolidated Interest Expense paid in cash during such fiscal year,

all required payments of principal in respect of any Indebtedness during such fiscal year (other than mandatory prepayments of Loans pursuant to Section 4.02(a)(ix)), except to the extent financed with proceeds of Indebtedness or occurring in connection with a refinancing of all or any portion of such Indebtedness and only to the extent that the Indebtedness prepaid or repaid by its terms cannot be reborrowed or redrawn,

the aggregate principal amount of any voluntary payment permitted hereunder of term Indebtedness (other than any voluntary prepayment of the Loans, which shall be the subject of Section 4.02(a)(ix)(y)) and the amount of any voluntary payments of revolving Indebtedness to the extent accompanied by permanent reductions of the related revolving facility commitments in an amount equal to such prepayment, in each case to the extent not financed with proceeds of long-term Indebtedness or the issuance of Capital Stock,

Taxes paid in cash and to the extent based on income, profits or capital of such Person and its subsidiaries, including, in each case, federal, state, provincial, local, foreign, unitary, franchise, excise, property, withholding and similar Taxes, including any penalties and interest,

any Capital Expenditures made during such fiscal year, excluding Capital Expenditures to the extent financed through the incurrence of Capital Lease Obligations, the issuance of Capital Stock, the incurrence of any long-term Indebtedness or the receipt of proceeds of insurance,

net increase, if any, in Consolidated Working Capital of the Consolidated Companies during such fiscal year,

any fees, costs, and expenses of the Borrower and its Subsidiaries related to this Agreement, the Transactions, associated with investigations by Governmental Authorities, any litigation or as a result of the Inaccurate Information (including in connection with the restatement of historical financial statements) or payment of any actual legal settlement, fine, judgment or order in respect of the foregoing and any financings, acquisitions, investments, dispositions, private or public offerings of equity securities or the establishment of joint ventures, in each case whether or not consummated, to the extent added back in determining Consolidated Adjusted EBITDA and paid in cash,

payments in respect of earn-outs in accordance with the terms hereof made in cash by the Loan Parties to the extent permitted pursuant to Section 9.01(n), except to the extent financed with the proceeds of long-term Indebtedness or issuances of Capital Stock,

non-cash charges, gains, credits, expenses, costs, adjustments or other amounts included in the calculation of Consolidated Net Income or Consolidated Adjusted EBITDA;

payments of indemnities and expense reimbursement paid or accrued to directors and officers including payment for directors and officers insurance policies, in each case to the extent paid in cash and added-back to Consolidated Adjusted EBITDA during such fiscal year;

Restricted Payments made in cash in accordance with Section 9.06(f), to the extent paid in cash and added-back to Consolidated Adjusted EBITDA during such fiscal year,

out-of-pocket costs, fees, expenses and charges related to any Permitted Acquisitions, in each case, only to the extent added back in determining Consolidated Adjusted EBITDA and paid in cash,

cash used to make Permitted Acquisitions and Investments in reliance on Section 9.05(g), except to the extent financed with the proceeds of long-term Indebtedness or issuances of Capital Stock,

losses on the disposition of assets not in the ordinary course only to the extent added back in determining Consolidated Adjusted EBITDA and paid in cash,

amounts paid in cash during such year on account of items that were accounted for as non-cash reductions of Consolidated Net Income in determining Consolidated Net Income or as non-cash reductions of Consolidated Net Income in determining Consolidated Adjusted EBITDA in a prior years,

any amounts added back in determining Consolidated Adjusted EBITDA representing reserves of any kind or losses;

the amount of any extraordinary, unusual or non-recurring fees, expenses and charges to the extent added back in determining Consolidated Adjusted EBITDA pursuant to clause (b)(vi) thereof and paid in cash, and

amounts paid in cash during such fiscal year to the extent added back in determining Consolidated Adjusted EBITDA pursuant to clause (b)(v) thereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excluded Deposit Accounts" means a deposit account (i) which is used for the sole purpose of making payroll for the then current payroll period and withholding Tax payments related thereto and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements), (ii) which is used for the sole purpose of paying Taxes, including withholding and sales Taxes, (iii) is a zero balance deposit account, (iv) constituting a custodian, trust, fiduciary or other escrow account established for the benefit of third parties in the Ordinary Course of Business in connection with transactions permitted hereunder or (v) other deposit accounts (other than those identified in clauses (i) through (iv)) which collectively have average daily balances for any fiscal month of less than $400,000 in the aggregate; provided, that no deposit account shall qualify as an Excluded Deposit Account under clause (v) of this definition if the inclusion thereof would result in the aggregate balances of all Excluded Deposit Accounts (other than those identified in clauses (i) through (iv)) exceeding, at any time, $600,000.

"Excluded Swap Obligation" shall mean, with respect to any Guarantor, any Swap Obligations if, and to the extent that, all or a portion of the Guaranty Obligations of such Subsidiary of, or the grant by such Guarantor of a security interest pursuant to the Security Documents to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal or unlawful under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guaranty Obligations of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such related Swap Obligation but for such Guarantor's failure to constitute an "eligible contract participant" at such time. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty Obligations or security interest is or becomes illegal or unlawful under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof).

"Excluded Subsidiary" means:

any Subsidiary that is prohibited or restricted by Applicable Law from entering into the Guaranty and Security Agreement or otherwise providing a guaranty of the Obligations, or if such guaranty would require governmental (including regulatory) consent, approval, license or authorization (except to the extent that such consent, approval, license or authorization has been obtained);

any Subsidiary with respect to which entering into the Guaranty and Security Agreement or otherwise providing a guaranty of the Obligations would result in material adverse tax consequences as reasonably determined by the Borrower and the Administrative Agent; and

any other Subsidiary with respect to which the Administrative Agent and the Borrower reasonably agree that the burden or cost of entering into the Guaranty and Security

Agreement or otherwise providing a guaranty of the Obligations shall outweigh the benefits to be obtained by the Lenders therefrom.

"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 any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 12.07(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 4.04, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 4.04(f), and (d) any U.S. federal withholding Taxes imposed under FATCA.

"Executive Order" has the meaning given to such term in Section 7.29.

"Existing Credit Agreement" means that certain Loan Agreement, dated as of June 10, 2019 (as amended, restated, amended and restated, supplemented and/or otherwise modified on or prior to the date hereof), by and among, *inter alios*, the Borrower, the entities identified as "Guarantors" thereunder, the lenders from time to time party thereto and Blue Torch Finance LLC, as administrative agent and collateral agent for such lenders.

"Existing Facility" has the meaning given to such term in Section 2.08(c)(ii).

"Extraordinary Receipts" means any cash or other amounts or receipts received by, on behalf of or on account of any Loan Party or any Subsidiary of any Loan Party not in the Ordinary Course of Business constituting (a) proceeds of judgments, proceeds of settlements and other consideration of any kind received in connection with any cause of action, (b) indemnification payments received by any Loan Party to the extent not used or anticipated to be used to pay any corresponding liability or reimburse such Loan Party for the payment of such liability, and (c) foreign, United States, state or local tax refunds.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Loan 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.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as determined by the Administrative Agent in a commercially reasonable manner, and if no such rate is so published, the Federal Funds Rate for such day shall be the average rate for such day on such transactions received by the Administrative Agent from three (3) federal funds brokers of recognized standing selected by it (but in no event less than 0.0%).

"Fee Letter" means that certain fee letter, dated as of the date hereof, among the Borrower, the Agents, and the Lenders on the date hereof, as amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time.

"Fees" means all amounts payable pursuant to, or referred to in, Section 3.01 or in the Fee Letter.

"Foreign Lender" means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

"Funded Debt" means, as of any date of determination, all then outstanding Indebtedness of the Consolidated Companies of the type described in clauses (a), (b) (to the extent such Indebtedness is drawn and unreimbursed), (d) (to the extent such Indebtedness is (a) recorded as a liability in accordance with GAAP and (b) due before the Latest Maturity Date), (g) (to the extent such Disqualified Capital Stock (a) matures or is mandatorily redeemable (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock), in whole or in part, (c) provides for the scheduled payment of dividends in cash or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would constitute Disqualified Capital Stock, in each case, prior to the Latest Maturity Date), (h) (to the extent such Guaranty Obligation is with respect to any of the foregoing) and (i) of the definition of "Indebtedness".

"GAAP" means generally accepted accounting principles in the United States of America set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession), including the FASB Accounting Standards Codification™, which are applicable to the circumstances as of the date of determination, subject to Section 1.03.

"Governmental Authority" means any federal, state or local government of the United States, any foreign country, any multinational authority, or any state, commonwealth, province, protectorate or political subdivision thereof, and any entity, body or authority exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, including the PBGC and other quasi-governmental entities established to perform such functions, and in each case any department or agency thereof.

"Guarantors" means (a) each Person that is a Subsidiary of the Borrower on the Closing Date and (b) each other Person that becomes a party to the Guaranty and Security Agreement or otherwise provides a guaranty for the payment and performance of the Obligations after the Closing Date pursuant to an agreement reasonably acceptable to the Collateral Agent pursuant to Section 8.10.

"Guaranty and Security Agreement" means a Guaranty and Security Agreement among each Loan Party and the Collateral Agent for the benefit of the Secured Parties, in the form of Exhibit C-1.

"Guaranty Obligations" means, as to any Person, any Contingent Liability of such Person or other obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (b) to

advance or supply funds (i) for the purchase or payment of any such Indebtedness or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness or (d) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided, that the term "Guaranty Obligations" shall not include endorsements of instruments for deposit or collection in the Ordinary Course of Business or customary and reasonable indemnity obligations in effect on the Closing Date, entered into in connection with any acquisition or disposition of assets permitted under this Loan Agreement (other than with respect to Indebtedness). The amount of any Guaranty Obligation shall be determined in accordance with GAAP.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances", "hazardous waste", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", "toxic substances", "toxic pollutants", "contaminants" or "pollutants" or words of similar import under any applicable Environmental Law; and (c) any chemical, waste, material or substance which is regulated under any Environmental Law.

"Hayfin Initial Lenders" means Hayfin DLF III Luxco 1 S.àr.l, Hayfin Sapphire IV Luxco SCA, Hayfin PT Luxco 2 S.àr.l, and Infinity Holdco Private Debt II S.àr.l.

"Hayfin Lender" means, on any date of determination, if such Person is a Lender on such date of determination, any Hayfin Party.

"Hayfin Party" means (a) any Hayfin Initial Lender, (b) any Affiliate of any Hayfin Initial Lender and (c) any other funds managed and/or advised by Hayfin Capital Management LLP and any of such funds Affiliates.

"Health Care Laws" means all laws of the United States with respect to regulatory matters primarily relating to patient healthcare, including, without limitation, such laws pertaining to: (i) any federal health care program (as such term is defined in 42 U.S.C. § 1320a-7b(f)), including those pertaining to providers of goods or services that are paid for by any federal health care program, including the federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)), the Stark Law (42 U.S.C. § 1395nn), the civil False Claims Act (31 U.S.C. § 3729 et seq.), the administrative False Claims Law (42 U.S.C. § 1320a-7b(a)), exclusion from participation in federal health care programs (42 U.S.C. § 1320a-7), civil monetary penalties with respect to federal health care programs (42 U.S.C. § 1320a-7a), Medicare (Title XVIII of the Social Security Act), Medicaid (Title XIX of the Social Security Act), and the Public Health Service Act ("PHSA") (42 U.S.C. §§ 201 et seq.); (ii) the general federal anti-fraud statute related to healthcare benefit programs (18 U.S.C. §1347); (iii) the privacy and security of patient-identifying health care information, including, without limitation, the Health Insurance Portability and Accountability Act of 1996; (iv) the research, testing, production, manufacturing, transfer, distribution and sale of drugs, biologics, and medical devices, or other products subject to the jurisdiction of the U.S. Food and Drug Administration ("FDA") including, without limitation, the United States Food, Drug and Cosmetic Act (21 U.S.C. §§ 301 et seq.); (v) the hiring of employees or the acquisition of services or supplies from individuals or entities that have been excluded from government health care programs; and (vi) Permits required to be held by individuals and entities involved in the manufacture and delivery of health care items and services; and with respect to the foregoing, all regulations promulgated thereunder, and equivalent applicable laws of other applicable Governmental Authorities, and each of clauses (i) through (vi) as may be amended from time to time.

"Hedge Bank" shall have the meaning assigned to such term in the definition of "Secured Parties."

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

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under Hedging Agreements.

"Inaccurate Information" means any financial reporting or financial statements or projections or pro forma financial information (and any related disclosures) maintained or provided on or prior to the date hereof by or relating to Borrower which recognized revenue incorrectly as described in Borrower's press release dated June 7, 2018 and Borrower's Form 8-K filing dated June 7, 2018, including any such reporting as it may have impacted Borrower's balance sheet, consolidated statements of income and cash flows for such periods.

"Incremental Cap" means $50,000,000.

"Incremental Effective Date" has the meaning given to such term in Section 2.08(a).

"Incremental Facility" has the meaning given to such term in Section 2.08(a).

"Incremental Facility Request" has the meaning given to such term in Section 2.08(a).

"Incremental Joinder Agreement" has the meaning given to such term in Section 2.08(d).

"Incremental Term Loan" has the meaning given to such term in Section 2.08(a).

"Incremental Term Loan Commitment" has the meaning given to such term in Section 2.08(a).

"Incremental Term Loan Lender" has the meaning given to such term in Section 2.08(a).

"Indebtedness" means, as to any Person at a particular time, without duplication, the following:

all indebtedness of such Person for borrowed money and all indebtedness of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments which interest charges are customarily paid or accrued;

the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

net Hedging Obligations of such Person;

all obligations of such Person from installment purchases of property, Persons, or services or representing the deferred purchase price for property or services (other than trade

accounts payable in the Ordinary Course of Business) and other similar deferred purchase price obligations (including earn-outs or other contingent consideration for acquisitions or other Investments), in each case to the extent constituting liabilities under GAAP;

obligations secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) a Lien on property owned or being purchased by such Person (including obligations arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

all Attributable Indebtedness;

all obligations of such Person in respect of Disqualified Capital Stock;

all Guaranty Obligations of such Person in respect of any of the foregoing; and

trade payables more than ninety (90) days past due.

Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would constitute Funded Debt. The amount of any net Hedging Obligations on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) above shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith.

"Indemnified Liabilities" has the meaning given to such term in Section 12.05.

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Ineligible Product" means any Product that (a) has become the subject of (i) an Order of Retention, Recall, Destruction, or Cessation of Manufacturing (excluding any such order to the extent relating to the recall of any Product); or (ii) a License Suspension or Revocation Letter which remains in full effect; or (b) otherwise is prohibited from distribution in interstate commerce or export pursuant to the Food, Drug and Cosmetic Act or the PHSA.

"Initial Loans" means the Initial Term Loans, each DDTL (if any) and any Incremental Term Loans incurred as an increase to the then in existence "Initial Loans" in accordance with Section 2.08.

"Initial Loans Maturity Date" means June 30, 2025.

"Initial Term Loan" has the meaning set forth in Section 2.01(a).

"Initial Term Loan Lender" means any Lender with an Initial Term Loan Commitment or an outstanding Initial Term Loan.

"Initial Term Loan Commitment" means, in the case of each Lender as of the date hereof, the amount set forth opposite such Lender's name on Schedule 1.01 under the header

"Initial Term Loan Commitment", as the same may be changed from time to time pursuant to the terms hereof.

"Insolvency Proceeding" means, with respect to any Person (including, any Lender), such Person or such Person's direct or indirect parent company (a) becomes the subject of a bankruptcy or insolvency proceeding (including any proceeding under Title 11 of the United States Code), or regulatory restrictions, (b) has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it or has called a meeting of its creditors, (c) admits in writing its inability, or be generally unable, to pay its debts as they become due or ceases operations of its present business, (d) with respect to a Lender, such Lender is unable to perform hereunder due to the application of Applicable Law, or (e) in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment of a type described in clauses (a) or (b), provided that an Insolvency Proceeding shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Governmental Authority or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Intercompany Notes" has the meaning given to such term in Section 9.01(j).

"Interest Payment Date" means the last Business Day of each calendar quarter (or portion thereof), commencing on September 30, 2019; provided that if any Interest Payment Date occurs on a day that is not a Business Day, then such Interest Payment Date shall be deemed to occur on the next succeeding Business Day.

"Interest Period" means, with respect to any Loan, initially the period commencing on the Business Day such Loan is disbursed and ending on the date three (3) calendar months after such disbursement and thereafter each period of three (3) consecutive calendar months ending on the last date of such three calendar month period; provided that:

if any Interest Period would otherwise end on a day which is not a Business Day, that Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day;

any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

no Interest Period for any Loan or any portion thereof shall extend beyond the last scheduled payment date therefor and if such Interest Period would otherwise extend beyond the Maturity Date applicable to such Loan, such Interest Period shall automatically be deemed to end (and be the Interest Period that ends) on the Maturity Date applicable to such Loan.

"Inventory" means any and all "goods" (as defined in the UCC) which shall at any time constitute "inventory" (as defined in the UCC) of any Loan Party, wherever located (including without limitation, goods in transit and goods in the possession of third parties), or which from time to time are held for sale, lease or consumption in any Loan Party's business,

furnished under any contract of service or held as raw materials, work in process, finished inventory or supplies (including without limitation, packaging and/or shipping materials).

"Investment" means, relative to any Person, (a) any loan, advance or extension of credit made by such Person to any other Person, including the purchase by such first Person of any bonds, notes, debentures or other debt securities of any such other Person; (b) the incurrence of Contingent Liabilities in favor of any other Person; and (c) the acquisition of, or capital contribution in respect of, any Capital Stock held by such Person in any other Person. The amount of any Investment at any time shall be the original principal or capital amount thereof less all returns of principal or equity or capital thereon received (in cash or in the same form as the Investment) on or before such time and shall, if made by the transfer or exchange of property other than cash, be deemed to have been made in an original principal or capital amount equal to the fair market value of such property at the time of such Investment.

"IP Rights" means "Intellectual Property" as defined in the Guaranty and Security Agreement.

"IRS" means the U.S. Internal Revenue Service.

"Key IP" means all IP Rights described on Schedule 1.02.

"Landlord Agreement" means, with respect to (i) 1775 West Oak Commons Ct. NE Marietta, GA 30062 and each other location owned by a third party and used by a Loan Party as a manufacturing facility or where original books and records, primary servers, or any other systems necessary to operate the business in the Ordinary Course of Business are located and (ii) each other location owned by a third party at which a Loan Party stores Collateral with an aggregate value of greater than $5,000,000, in each case, a landlord waiver, collateral access agreement or other acknowledgement agreement of the applicable landlord or lessor in possession of, having a Lien upon, or having rights or interests in Collateral located therein as may be reasonably requested by the Collateral Agent, in each case in form and substance reasonably satisfactory to the Collateral Agent and the Borrower.

"Latest Maturity Date" means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or commitment hereunder as of such date.

"Law" means any law (including common law), statute, regulation, ordinance, rule, order, decree, judgment, consent decree, writ, injunction, settlement agreement or binding governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority or determination of an arbitrator.

"Lender" means each Person identified as a "Lender" on Schedule 1.01 and any Incremental Term Loan Lenders, their assignees pursuant to Section 12.06, and each other Person that has made or holds Loans, in each case other than any such Person that has ceased to be a party hereto pursuant to an Assignment and Acceptance.

"LIBOR Rate" means, for any Interest Period, a rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1.00%) equal to the greater of (i) Three Month London Inter-Bank Offered Rate for U.S. Dollar Deposits as set and published by ICE Benchmark Administration Limited (or its successor) and as obtained by the Administrative Agent through the applicable Bloomberg, L.P. screen page (or, if unavailable, another service or publication selected by the Administrative Agent), at approximately 11:00 a.m. two (2) Business Days prior to the first day of such Interest Period and (ii) one and one-half percent (1.50%) per annum; provided, that if the rates referenced in the preceding clauses (i) and (ii) are not available, the rate per annum equal to the quotation rate offered to first class banks in the London

interbank market for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loans as determined by the Administrative Agent.

"Lien" means any statutory or other lien, security interest, mortgage, pledge, hypothecation, assignment for collateral purposes, encumbrance, option, purchase right, call right, easement, right-of-way, license, sub-license, restriction (including zoning restrictions), defect, exception or material irregularity in title or similar charge or encumbrance, including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof.

"Limited Condition Acquisition" means any Permitted Acquisition by Borrower or one or more of its Subsidiaries permitted pursuant to this Loan Agreement whose consummation is not conditioned on the availability of, or on obtaining, third party financing; provided that in the event the consummation of any such Permitted Acquisition shall not have occurred on or prior to the date that is four months following the signing of the applicable Limited Condition Acquisition Agreement, such acquisition shall no longer constitute a Limited Condition Acquisition for any purpose hereunder.

"Limited Condition Acquisition Agreement" as defined in Section 1.12.

"Liquidity" means, as of any date of determination, the amount of Qualified Cash of the Consolidated Companies.

"Liquidity Compliance Certificate" means a certificate duly completed and executed by an Authorized Officer of the Borrower substantially in the form of Exhibit D-2, together with such changes thereto or departures therefrom as the Administrative Agent may reasonably request (in connection with any operational or administrative function of the Administrative Agent or to reflect any amendment or modification of this Loan Agreement or any other Loan Document) or approve from time to time.

"Loan Agreement" means this Loan Agreement, as amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time.

"Loan Documents" means this Loan Agreement, the Notes, the Fee Letter, the Security Documents, the Perfection Certificates, any intercreditor or subordination agreements in favor of any Agent with respect to this Loan Agreement, and any other document, instrument, certificate or agreement executed by any Loan Party, or by the Borrower on behalf of any Loan Party, and delivered to any Agent or Lender in connection with any of the foregoing or the Obligations.

"Loan Party" means the Borrower, each of the other Guarantors, and each other Person that becomes a Loan Party pursuant to the execution of joinder documents.

"Loans" means the Initial Term Loans, each DDTL (if any) and any Incremental Term Loan (if any).

"Make-Whole Amount**"** means shall mean, as of any time of determination with respect to any actual or required repayment, or prepayment or acceleration of the outstanding principal amount of the Loans, an amount, determined by the Administrative Agent, equal to the greater of (a) 5.00% of the outstanding principal amount of the Loans being repaid or prepaid or accelerated at such time of determination and (b) the excess of (i) the present value on the repayment, prepayment or acceleration date of the aggregate of (x) 102.00% of the principal amount to be repaid, prepaid or accelerated as if that amount would otherwise be repaid, prepaid

or accelerated on the date that is twelve (12) months following the Closing Date and (y) the amount equal to the amount of all interest which would otherwise have accrued for the period from the date of such repayment, or prepayment or acceleration (or the date on which such repayment or prepayment was required to be made) to the date that is twelve (12) months following the Closing Date, computed using a discount rate equal to the Treasury Rate as at the date which is two Business Days prior to the date of repayment or prepayment plus 50 basis points, over (ii) the principal amount to be repaid or prepaid or accelerated.

"Margin Stock" means "margin stock" as such term is defined in Regulations T, U or X of the Board.

"Material Adverse Effect" means a material adverse effect or material adverse change on (a) (i) the financial condition, results of operations, assets, liabilities or properties of the Borrower, the other Loan Parties, and their respective Subsidiaries, taken as a whole, or (ii) validity or enforceability of this Loan Agreement, any of the other Loan Documents, any material provision hereof or thereof, or any material right or remedy of the Secured Parties hereunder or thereunder, or (b) the ability of the Borrower, any other Loan Party, or any of their respective Subsidiaries, taken as a whole, to perform any of their material obligations contained in this Loan Agreement or any of the other Loan Documents.

"Material Contracts" means and includes (i) any Contractual Obligation of any Loan Party or any Subsidiary of a Loan Party, the failure to comply with which, or the termination (without contemporaneous replacement) of which, could reasonably be expected to have a Material Adverse Effect and/or (ii) any Contractual Obligation of any Loan Party or any Subsidiary of a Loan Party involving aggregate annual consideration payable to such Loan Party or Subsidiary in excess of $20,000,000.

"Material Indebtedness" means any Indebtedness of any Loan Party or Subsidiary of any Loan Party (other than the Obligations) having a principal or stated amount, individually or in the aggregate, in excess of $5,000,000.

"Maturity Date" means (i) with respect to the Initial Loans, the Initial Loans Maturity Date, and (ii) with respect to any Additional Incremental Term Loan, the applicable Additional Incremental Term Loan Maturity Date.

"Minimum Consolidated Total Net Sales Amount" has the meaning given to such term in Section 9.13(b).

"Model" means that certain forecast model delivered to the Administrative Agent as the Excel file titled "Falcon Model 28 JUN 20" via the Borrower's virtual data room, folder 20.26

"Moody's" means Moody's Investors Service, Inc. or any successor by merger or consolidation to its business.

"Mortgage" means a mortgage or a deed of trust, deed to secure debt, trust deed or other security document entered into by any applicable Loan Party and the Collateral Agent for the benefit of the Secured Parties in respect of any Real Property owned by such Loan Party, in form and substance reasonably satisfactory to the Collateral Agent.

"Mortgaged Property" means each parcel of Real Property and the improvements thereto (if any) with respect to which a Mortgage is granted pursuant to Section 8.13(a).

"Multiemployer Plan" means any multiemployer plan, as defined in Section 4001(a)(3) of ERISA, which is contributed to by (or to which there is an obligation to contribute of) any Loan Party or any ERISA Affiliate, and each such plan for the five-year period immediately following the latest date on which any Loan Party or any ERISA Affiliate contributed to or had an obligation to contribute to such plan.

"Net Casualty Proceeds" means, with respect to any Casualty Event, the gross cash proceeds of any insurance proceeds or condemnation awards received by any Loan Party or any of its Subsidiaries in connection with such Casualty Event, net of all reasonable and customary collection expenses thereof (including, without limitation, any legal or other professional fees) (except with respect to any expenses paid to a Loan Party or an Affiliate thereof), but excluding any proceeds or awards required to be paid to a creditor (other than the Lenders) which holds a first priority Lien permitted by Section 9.02(c) or (d) on the property which is the subject of such Casualty Event, and less any Taxes payable by such Person on account of such insurance proceeds or condemnation award, actually paid, assessed or estimated by such Person (in good faith) to be payable within the next twelve (12) months in cash in connection with such Casualty Event, in each case to the extent, but only to the extent, that the amounts are properly attributable to such transaction; provided, that if, after the expiration of such twelve-month period, the amount of such estimated or assessed Taxes, if any, exceeded the Taxes actually paid in cash in respect of proceeds from such Casualty Event, the aggregate amount of such excess shall constitute additional Net Casualty Proceeds under Section 4.02(a)(iii) and be applied to the prepayment of the Obligations pursuant to Section 4.02(b).

"Net Debt Proceeds" means, with respect to the sale or issuance by any Loan Party or any of its Subsidiaries of any Indebtedness, the excess of: (a) the gross cash proceeds received by the issuer of such Indebtedness from such sale or issuance, over (b) all reasonable and customary underwriting commissions and legal, investment banking, underwriting, brokerage, accounting and other professional fees, sales commissions and disbursements and all other reasonable fees, expenses and charges, in each case actually incurred in connection with such sale or issuance which have not been paid and are not payable to any Loan Party or an Affiliate thereof in connection therewith.

"Net Disposition Proceeds" means, with respect to any Disposition by any Loan Party or any of its Subsidiaries, the excess of: (a) the gross cash proceeds received by such Person from such Disposition, over (b) the sum of: (i) all reasonable and customary legal, investment banking, underwriting, brokerage and accounting and other professional fees, sales commissions and disbursements and all other reasonable fees, expenses and charges, in each case actually incurred in connection with such Disposition which have not been paid and are not payable to any Loan Party or Affiliate thereof in connection therewith, and (ii) all Taxes payable by such Person on account of proceeds from such Disposition, actually paid, assessed or estimated by such Person (in good faith) to be payable in cash within the next twelve (12) months in connection with such proceeds, in each case to the extent, but only to the extent, that the amounts are properly attributable to such transaction; provided, that if, after the expiration of the twelve-month period referred to in clause (b)(ii) above, the amount of estimated or assessed Taxes, if any, pursuant to clause (b)(ii) above exceeded the Taxes actually paid in cash in respect of proceeds from such Disposition, the aggregate amount of such excess shall constitute Net Disposition Proceeds under Section 4.02(a)(ii) and be applied to the prepayment of the Obligations pursuant to Section 4.02(b).

"Non-Consenting Lender" has the meaning given to such term in Section 12.07(b).

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Note" has the meaning assigned to such term in Section 2.09.

"Notice of Exclusive Control" means notice from the Collateral Agent issued after the occurrence and during the existence of an Event of Default to the depositary bank, securities intermediary, commodity intermediary or other financial institution party to an Account Control Agreement that it will (a) cease to comply with instructions directing the disposition of funds in, cease to comply with entitlement orders with respect to financial assets in, and cease to apply any value distributed on account of the commodity contracts in, the account issued by the applicable Loan Party, and (b) comply only with instructions of the Collateral Agent directing the disposition of funds in, or entitlement orders with respect to financial assets in, or the application of value on account of the commodity contracts in, the account without the consent of any Loan Party.

"Obligations" means (a) with respect to the Borrower, all obligations (monetary or otherwise, whenever arising, and whether absolute or contingent, liquidated or unliquidated, due or to become due, or matured or unmatured) of the Borrower arising under this Loan Agreement, the Notes, the Fee Letter or any other Loan Document, including the principal of, and interest (including interest accruing after the commencement or during the pendency of any proceeding, action or case under the Bankruptcy Code or otherwise of the type described in Section 10.01(k), whether or not allowed in such proceeding, action or case) on, and the Prepayment Premium with respect to, the Loans, and all fees, expenses, costs, indemnities and other sums payable at any time under any Loan Document and (b) with respect to each Loan Party other than the Borrower, all obligations (monetary or otherwise, whenever arising, and whether absolute or contingent, liquidated or unliquidated, due or to become due, or matured or unmatured) of such Loan Party arising under this Loan Agreement or any other Loan Document.

"OFAC Sanctions" has the meaning given to such term in Section 7.30.

"Ordinary Course of Business" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, as conducted by any such Person in accordance with past practice, if applicable, and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"Organization Documents" means, (a) with respect to any corporation, its certificate or articles of incorporation and its bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, its certificate or articles of formation or organization and its operating agreement, (c) with respect to any partnership, joint venture, trust or other form of business entity, its partnership, joint venture or other applicable agreement of formation or organization and, if applicable, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity, and (d) with respect to any entity, any applicable stockholders agreement, shareholders agreement, voting agreement or other similar agreement.

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

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the

execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 12.07(b)).

"Participant" has the meaning given to such term in Section 12.06(c)(i).

"Participant Register" has the meaning given to such term in Section 12.06(c)(iii).

"Patent Security Agreements" means any patent security agreement entered into on or after the Closing Date (as required by this Loan Agreement or any other Loan Document), in each case as amended, supplemented or otherwise modified, renewed or replaced from time to time.

"Patriot Act" has the meaning given to such term in Section 12.21.

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

"Perfection Certificate" means a Perfection Certificate in the form of Exhibit E, or otherwise in form and substance reasonably satisfactory to the Collateral Agent, delivered by each Loan Party to the Administrative Agent pursuant to Section 5.06(b).

"Perfection Requirements" means the filing of appropriate UCC financing statements with the office of the Secretary of State of the state of organization of each Loan Party and the filing of appropriate assignments or notices with the U.S. Patent and Trademark Office and the U.S. Copyright Office, in each case, in favor of the Collateral Agent for the benefit of the Secured Parties and the delivery to the Collateral Agent of any stock certificate or promissory note required to be delivered pursuant to the applicable Loan Documents, together with instruments of transfer executed in blank.

"Permits" means, with respect to any Person, any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from, and any other Contractual Obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Permitted Acquisition" means any acquisition by purchase or otherwise of all or substantially all of the business, assets or all of the Capital Stock (other than directors' qualifying shares) of any U.S. or Canadian Person or a business unit of a U.S. or Canadian Person, with Acquisition Consideration not in excess of $75,000,000 in the aggregate for all Permitted Acquisitions consummated following the date hereof (provided that, so long as the Borrower and its Subsidiaries are in compliance with Section 9.13 on a pro forma basis after giving effect to such acquisition, the foregoing cap will not apply to the extent such applicable Acquisition Consideration is paid with the contribution of proceeds of the purchase of, or in exchange for, Capital Stock of the Borrower (other than Disqualified Capital Stock) or capital contribution to the Borrower, in each case by the equityholders of the Borrower, and such contribution occurs substantially concurrently with such applicable Permitted Acquisition and such contribution is clearly identified, pursuant to a certificate executed and delivered by an Authorized Officer of the Borrower, to the Administrative Agent as a contribution to be used in connection with such applicable Permitted Acquisition), so long as:

(v) subject to Section 1.12, no Event of Default has occurred and is continuing at the time such acquisition is made and no Event of Default would result from the completion of such acquisition;

(vi) either (x) subject to Section 1.12, on a pro forma basis after giving effect to such acquisition, the Total Net Leverage Ratio as of the most recently ended Test Period shall not be greater than the Total Net Leverage Ratio as of the last day of such Test Period or (y) subject to Section 1.12 on a pro forma basis after giving effect to such acquisition (but without giving effect to any adjustment pursuant to clause (xiv) of the definition of Consolidated Adjusted EBITDA as a result of such acquisition), the Total Net Leverage Ratio as of the most recently ended Test Period shall not be greater than 3.50:1.00; provided that if (A) the aggregate Acquisition Consideration is more than $2,500,000, the Borrower shall deliver to the Administrative Agent a certificate from an Authorized Officer demonstrating in reasonable detail that compliance with this clause (b) is satisfied and (B) the aggregate Acquisition Consideration in respect of all Permitted Acquisitions incurred in reliance on clause (b)(y) shall not exceed $25,000,000;

(vii) the Loan Parties shall take all actions required pursuant to Sections 8.10, 8.11 and 8.15 with respect to any Person or assets subject to such acquisition in the time periods set forth in such sections; provided, that if such Person does not become a Loan Party or such assets do not become subject to the Lien granted to the Collateral Agent, the Acquisition Consideration paid in connection with such acquisition and all other such acquisitions following the date hereof described in this proviso shall not exceed $10,000,000 in the aggregate;

(viii) the Person or Persons being acquired shall be in the same or a related line of business as the Borrower;

(ix) such acquisition shall not be hostile;

(x) immediately after giving effect to the acquisition, the Borrower and its Subsidiaries shall be in compliance with Section 9.13(~~b~~c);

(xi) in the case of a target entity (or set of assets) being acquired whose Consolidated Adjusted EBITDA (calculated on a pro forma basis in a manner consistent with the definition of Consolidated EBITDA), represents at least five percent (5.0%) of total Consolidated Adjusted EBITDA (calculated on a pro forma basis prior to giving effect to such acquisition), in each case for the trailing twelve month period most recently ended for which financial statements have been delivered to Administrative Agent pursuant to Section 8.01(b) or (c) (whichever was most recently delivered to Administrative Agent) the Administrative Agent shall have received at least five (5) Business Days prior to the closing of such acquisition or such shorter period as Administrative Agent may reasonably accept of, to the extent readily available, (i) a description of the proposed acquisition and material and customary legal and business diligence reports, (ii) to the extent available, summary historical annual audited and quarterly unaudited financial statements (including a balance sheet, income statement and cash flows statement) of the target for the previous twelve (12) month period, and (iii) pro forma forecasted balance sheets, income statements, and cash flow statements of the Borrower and its Subsidiaries, all prepared on a basis consistent with the Borrower's historical financial statements, subject to adjustments to reflect projected consolidated operations following the acquisition, together with appropriate supporting details and a statement of underlying assumptions for the one year period following the date of the proposed acquisition, on a month by month basis;

(xii) in the case of any acquisition with Acquisition Consideration in excess of $5,000,000, the Administrative Agent shall have received a quality of earnings report from a firm of nationally recognized standing or otherwise reasonably acceptable to Administrative Agent;

(xiii) the Administrative Agent shall have received drafts of the acquisition documents (followed promptly by final versions at least one (1) Business Day prior to (or such shorter period as agreed to by Administrative Agent) the consummation of such acquisition) at least five (5) Business Days prior to the closing of such acquisition or such shorter period as Administrative Agent may reasonably accept (with updates and executed copies thereof provided to Administrative Agent as soon as available).

"Permitted Liens" has the meaning given to such term in Section 9.02.

"Person" means any individual, corporation, limited liability company, partnership, limited partnership, joint venture, firm, association, trust, unincorporated organization, or other enterprise (whether or not legally formed) or any Governmental Authority.

"PIPE SPA" means that certain Securities Purchase Agreement, dated as of June 30, 2020, by and among the Borrower and the Investors (as such term is defined therein), as in effect on the date hereof.

"PIPE Transactions" means the transactions contemplated by the PIPE SPA, pursuant to which, among other things, the Investors are purchasing from the Borrower an aggregate amount of 100,000 shares of the Borrower's Series B Preferred Stock (as defined in the PIPE SPA) for an aggregate purchase price of $100,000,000.

"Plan" means any Multiemployer Plan or any "employee benefit plan," as defined in Section 3 of ERISA subject to Title IV of ERISA, Section 412 of the Code or Sections 302 or 303 of ERISA, sponsored, maintained or contributed to by any Loan Party or any ERISA Affiliate (or to which any Loan Party or any ERISA Affiliate has or could have an obligation to contribute or to make payments), and each such plan for the five-year period immediately following the latest date on which any Loan Party or any ERISA Affiliate maintained, contributed to or had an obligation to contribute to (or is deemed under Sections 4069 or 4212(c) of ERISA to have maintained or contributed to or to have had an obligation to contribute to, or otherwise to have liability with respect to) such plan.

"Plan of Reorganization" has the meaning given to such term in Section 12.06(e).

"Pledged Stock" has the meaning given to such term in the Guaranty and Security Agreement.

"Prepayment Percentage" shall mean (i) for any fiscal year for which the Total Net Leverage Ratio as of the last day of such fiscal year (as set forth in the applicable Compliance Certificate delivered pursuant to Section 8.01(d)) is greater than 1.00:1.00, 50%, (ii) for any fiscal year for which the Total Net Leverage Ratio as of the last day of such fiscal year (as set forth in the applicable Compliance Certificate delivered pursuant to Section 8.01(d)) is equal to or less than 1.00:1.00, but greater than or equal to 0.50:1.00, 25% and (iii) for any fiscal year for which the Total Net Leverage Ratio as of the last day of such fiscal year (as set forth in the applicable Compliance Certificate delivered pursuant to Section 8.01(d)) is less than 0.50:1.00, 0%.

"Prepayment Premium" means, as of the date of the occurrence of a Prepayment Premium Trigger Event, with respect to any Initial Loan:

during the period from and after the Closing Date through and including the date that is the first anniversary of the Closing Date, an amount equal to the Make-Whole Amount;

during the period following the first anniversary of the Closing Date through and including the date that is the second anniversary of the Closing Date, an amount equal to two percent (2.0%) of the principal amount of the Initial Loans prepaid (or in the case of an Prepayment Premium Trigger Event occurring under clauses (b) or (c) of the definition thereof, deemed to be prepaid) on such date;

during the period following the second anniversary of the Closing Date through and including the date that is the third anniversary of the Closing Date, an amount equal to one percent (~~1.0~~2.0%) of the principal amount of the Initial Loans prepaid (or in the case of an Prepayment Premium Trigger Event occurring under clauses (b) or (c) of the definition thereof, deemed to be prepaid) on such date;

(1) during the period following the third anniversary of the Closing Date through and including the date that is the fourth anniversary of the Closing Date, an amount equal to one percent (1.0%) of the principal amount of the Initial Loans prepaid (or in the case of an Prepayment Premium Trigger Event occurring under clauses (b) or (c) of the definition thereof, deemed to be prepaid) on such date; and

(2) ~~(iv)~~ after the ~~third~~fourth anniversary of the Closing Date, zero (0.0%).

"Prepayment Premium Trigger Event" means:

any prepayment by any Loan Party of all, or any part, of the principal balance of any Initial Loan voluntarily, including pursuant to Section 4.01, or mandatorily (other than any such prepayment pursuant to any of Section 4.02(a)(iii), Section 4.02(a)(ix) or, unless the relevant Disposition is with respect to all or substantially all of the assets of the Loan Parties and their Subsidiaries taken as a whole, Section 4.02(a)(ii)), whether in whole or in part, and whether before or after (i) the occurrence of an Event of Default, or (ii) the commencement of any Insolvency Proceeding involving any Loan Party or Subsidiary thereof, and notwithstanding any acceleration (for any reason) of the Obligations;

the acceleration of the Obligations for any reason pursuant to Section 10.02, or as a result of the commencement of any proceeding under the Bankruptcy Code; or

the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any of the Obligations in any proceeding under the Bankruptcy Code, foreclosure (whether by power of judicial proceeding or otherwise) or deed in lieu of foreclosure, or the making of a distribution of any kind in any proceeding under the Bankruptcy Code to the Administrative Agent or the Lenders in full or partial satisfaction of the Obligations.

For purposes of the definition of the term Prepayment Premium, if a Prepayment Premium Trigger Event occurs under clause (b) or (c), solely for the purposes of determining the amount of Prepayment Premium that is due, the entire outstanding principal amount of the Initial Loans shall be deemed to have been prepaid on the date on which such Prepayment Premium Trigger Event occurs.

"Prime Rate" means a rate per annum equal to the highest of (a) the rate last quoted by *The Wall Street Journal* (or another national publication selected by the

Administrative Agent) as the "Prime Rate" in the United States or, if *The Wall Street Journal* ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent), (b) the sum of one-half of one percent (0.50%) per annum and the Federal Funds Rate, and (c) two and one-half percent (2.50%) per annum.

"Projections" means all financial estimates, forecasts, models, projections, other forward-looking information, and underlying assumptions relating to any of the foregoing, concerning the Loan Parties and their respective Subsidiaries, that have been or are hereafter made available to the Administrative Agent or a Lender by or on behalf of a Loan Party.

"Products" shall mean any current or future product developed, manufactured, licensed, marketed, sold or otherwise commercialized by the Borrower or any of its Subsidiaries, including any such product in development or which may be developed.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"Qualified Capital Stock" means any Capital Stock that is not Disqualified Capital Stock.

"Qualified Cash" means, as of any date of determination, the unrestricted cash (excluding any cash subject to reinvestment) and Cash Equivalents of the Loan Parties which is subject to an Account Control Agreement; provided that, prior to delivery of the Account Control Agreements set forth in Section 8.22(a) during the specified time period, solely for purposes of determining Qualified Cash during such time period, the requirement in this definition for unrestricted cash and Cash Equivalents of the Loan Parties to be subject to an Account Control Agreement shall not apply.

"Qualified ECP Guarantor" means, in respect of any Swap Obligations, each Loan Party that has total assets exceeding $500,000 at the time the relevant guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Real Property" means, with respect to any Person, all right, title and interest of such Person (including, without limitation, any leasehold estate) in and to a parcel of real property owned, leased or operated by such Person together with, in each case, all improvements and appurtenant fixtures, equipment, personal property, easements and other property and rights incidental to the ownership, lease or operation thereof.

"Recipient" means (a) the Administrative Agent, (b) the Collateral Agent, and (c) any Lender, as applicable.

"Refinancing" means the repayment in full of all principal, accrued and unpaid interest, fees premiums, if any, and other amounts outstanding under the Existing Credit Agreement (other than contingent obligations not then due and payable and that by their terms survive the termination thereof), the termination of all commitments to extend credit under the Existing Credit Agreement and the termination or release, as applicable, of any guarantees and security interests to secure the obligations thereunder.

"Register" has the meaning given to such term in Section 12.06(b)(iv).

"Regulation T" means Regulation T of the Board as from time to time in effect, and any successor to all or a portion thereof establishing margin requirements.

"Regulation U" means Regulation U of the Board as from time to time in effect, and any successor to all or a portion thereof establishing margin requirements.

"Regulation X" means Regulation X of the Board as from time to time in effect, and any successor to all or a portion thereof establishing margin requirements.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the directors, officers, employees, agents, trustees, advisors of such Person and any Person that possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract or otherwise.

"Release" means any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, depositing, disposing, emanating or migrating of Hazardous Materials in the environment, and in any event includes any "release" as such term is defined in CERCLA.

"Retained ECF Amount" means, on any Reference Date, an amount determined on a cumulative basis equal to the portion of Excess Cash Flow for each Fiscal Year ending on or after December 31, 2021 and prior to the Reference Date that was not required to be applied to prepay the Loans pursuant to Section 4.02(a)(ix) (prior to giving effect to clause (y) of such Section).

"Reportable Event" means an event described in Section 4043(c) of ERISA with respect to a Plan, other than an event for which the requirement to notify the PBGC of such event has been waived.

"Required Lenders" means, at any time, (a) the Lenders having Loans or unused Commitments representing more than fifty per cent (50%) of the sum of all Loans and unused Commitments outstanding at such time and (b) if the Hayfin Lenders, in the aggregate, hold more than twenty-five per cent (25%) of the sum of all Loans and unused Commitments outstanding at such time, each Hayfin Lender.

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

"Restricted Payment" means, with respect to any Person, (a) the declaration or payment of any dividend on, or the making of any payment or distribution on account of, or setting apart assets for a sinking or other analogous fund for the purchase, redemption, defeasance, retirement or other acquisition of, any class of Capital Stock of such Person or any warrants or options to purchase any such Capital Stock, whether now or hereafter outstanding, or the making of any other distribution in respect thereof, either directly or indirectly, whether in cash or property, (b) any payment of a management fee or other fee of a similar nature by such Person to any holder of its Capital Stock or any other Affiliate thereof and (c) the payment or prepayment of principal of, or premium or interest on, any Indebtedness contractually subordinate to the Obligations unless such payment is permitted under the terms of the subordination agreement applicable thereto.

"S&P" means Standard & Poor's Ratings Services or any successor by merger or consolidation to its business.

"Sanctioned Country" has the meaning given to such term in Section 7.30.

"Sanctioned Person" has the meaning given to such term in Section 7.30.

"Sanctions" has the meaning given to such term in Section 7.30.

"SEC" means the Securities and Exchange Commission and any Governmental Authority succeeding to some or all of the functions thereof.

"Secured Cash Management Agreement" shall mean any Cash Management Agreement that is entered into by and between any Loan Party and any Cash Management Bank.

"Secured Hedging Agreement" shall mean any Hedging Agreement (a) that is entered into by and between any Loan Party and any Hedge Bank and (b) in the case of a Hedging Agreement not entered into with or provided or arranged by any Lender or Agent or an Affiliate of any Lender or Agent, is expressly identified as being a "Secured Hedging Agreement" hereunder in a joint notice from such Loan Party and such Person delivered to the Administrative Agent reasonably promptly after the execution of such Hedging Agreement.

"Secured Obligations" shall mean (a) the Obligations and (b) all obligations of the Borrower and the other Loan Parties under each Secured Cash Management Agreement and Secured Hedging Agreement entered into with any counterparty that is a Secured Party, unless at the time such Secured Cash Management Agreement or Secured Hedging Agreement was entered into such Secured Cash Management Agreement or Secured Hedging Agreement was designated as not a Secured Obligation; provided that, notwithstanding anything to the contrary, (x) the Secured Obligations shall exclude any Excluded Swap Obligations, and (y) the Secured Obligations under clause (b) of this definition shall not exceed $10,000,000.

"Secured Parties" means, collectively, (a) the Lenders, (b) the Agents, (c) each Cash Management Bank, (d) each counterparty to a Hedging Agreement that is (x) a Lender, an Agent or an Arranger (or an Affiliate of a Lender or an Agent) and each other Person if, at the date of entering into such Hedging Agreement, such Person was a Lender or an Agent (or an Affiliate of a Lender or an Agent) or (y) each Person who has entered into a Hedging Agreement with a Credit Party if such Hedging Agreement was provided or arranged by the Arranger or an Affiliate of the Arranger, and any assignee of such Person or (z) each other Person with whom the Credit Party has entered into a Hedging Agreement; provided that if such Person is not a Lender or an Agent, by accepting the benefits of this Loan Agreement, such Person shall be deemed to have (i) appointed the Collateral Agent as its agent under the applicable Loan Documents and (ii) be deemed to be (and agrees to be) bound by the provisions of Sections 11.03, 12.03, 12.05 and 12.14 as if it were a Lender (a "Hedge Bank") (e) the beneficiaries of each indemnification obligation undertaken by any Loan Party under the Loan Documents, (f) any successors, endorsees, transferees and assigns of each of the foregoing, and (g) any other holder of any Secured Obligation (as defined in the Guaranty and Security Agreement).

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Security Documents" means, collectively, the Guaranty and Security Agreement, each Mortgage, each Landlord Agreement, each Account Control Agreement, the Patent Security Agreements, the Trademark Security Agreements, the Copyright Security Agreements, and each other instrument or document executed and delivered pursuant to Sections 8.10, 8.11, 8.13, 8.14,

8.15 or 8.20 or pursuant to any of the Security Documents to guarantee or secure any of the Obligations.

"Solvency Certificate" means a solvency certificate duly executed by an Authorized Officer of the Borrower and delivered to the Administrative Agent, substantially in the form of Exhibit G, or otherwise in form and substance satisfactory to the Administrative Agent.

"Solvent" means, with respect to the Borrower and Guarantors, at any date, that:

the fair value of the assets (on a going concern basis) of the Borrower and the Guarantors on a consolidated basis taken as a whole, exceeds its and their respective debts and liabilities on a consolidated basis taken as a whole, subordinated, contingent or otherwise;

the present fair saleable value of the property (on a going concern basis) of the Borrower and the Guarantors on a consolidated basis taken as a whole, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their respective debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the Ordinary Course of Business;

each of the Borrower and the Guarantors on a consolidated basis taken as a whole, are able to pay their respective debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the Ordinary Course of Business; and

each of the Borrower and the Guarantors on a consolidated basis taken as a whole, are not engaged in, and are not about to engage in, business contemplated as of the date hereof for which they have unreasonably small capital.

"Subsidiary" of any Person means and includes (a) any corporation more than fifty percent (50%) of whose Voting Stock having by the terms thereof power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries and (b) any partnership, limited liability company, association, joint venture or other entity in which such Person directly or indirectly through one or more Subsidiaries has more than fifty percent (50%) of Capital Stock (measured by vote or value) at the time. Unless otherwise expressly provided, all references herein to a "Subsidiary" mean a direct or indirect Subsidiary of the Borrower.

"Swap Obligation" shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"Swap Termination Value" means, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Agreements, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreements, as determined based upon one or more mid-market or other readily available quotations typically used for such mark-to-market valuation purpose and provided by any recognized independent dealer in such Hedging Agreements.

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

"Test Period" means, for any determination under this Loan Agreement, the four consecutive fiscal quarters of the Consolidated Companies most recently ended as of the date of such determination and for which financial statements have been delivered on or prior to the date of such determination (or were required to be delivered) pursuant to Section 8.01(b); provided, that, for purposes of (x) the definition of "Consolidated Total Net Sales" (and the component definitions thereof), (y) the definition of "Total Net Leverage Ratio" (and the component definitions thereof) solely with respect to the use thereof in Section 9.13(a) and (z) Section 8.01(b), the term "Test Period" shall mean, as of the applicable date of determination, the four consecutive fiscal quarters of the Consolidated Companies ending on such date (i.e. the Test Period for the Minimum Consolidated Total Net Sales Amount set forth in Section 9.13(b) for the June 30, 2022 Calculation Date shall be the four fiscal quarters of the Consolidated Companies ending on September 30, 2021, December 31, 2021, March 31, 2022 and June 30, 2022).

"Total Credit Exposure" means, as of any date of determination, (a) with respect to each Lender, the outstanding principal amount of such Lender's Loans, and (b) with respect to all Lenders, the aggregate outstanding principal amount of all Loans.

"Total DDTL Commitment" means the sum of all DDTL Lenders' DDTL Commitments, which as of the date hereof is $25,000,000.

"Total Initial Term Loan Commitment" means the sum of all Initial Term Loan Lenders' Initial Term Loan Commitments, which as of the date hereof is $50,000,000.

"Total Net Leverage Ratio" means, as of any date of determination, the ratio of (i) Funded Debt, net of unrestricted cash and Cash Equivalents of the Borrower and its Subsidiaries in an aggregate amount not to exceed $10,000,000 (which cash and Cash Equivalents, as of such date, are deposited in an account subject to an Account Control Agreement), outstanding on the last day of the Test Period most recently ended to (ii) Consolidated Adjusted EBITDA for the Test Period then most recently ended.

"Trade Date" means, as to a particular assignment or participation of an interest hereunder to a Person, the date on which the applicable Lender enters into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Loan Agreement to such Person.

"Trade Secrets" shall mean all trade secrets or other confidential and proprietary information, including confidential and proprietary customer lists, forms and types of financial, business, scientific, technical, economic, or engineering information or know-how, including confidential and proprietary patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, materials, compositions, technologies, inventions, procedures, programs or codes, whether tangible or intangible.

"Trademark Security Agreements" means any trademark security agreement entered into on or after the Closing Date (as required by this Loan Agreement or any other Loan Document).

"Trading with the Enemy Act" has the meaning given to such term in Section 7.29.

"Transactions" means (i) the execution and delivery by each Loan Party of the Loan Documents to which it is a party and performance of its obligations thereunder, (ii) the Refinancing, (iii) the PIPE Transactions, and (iv) the disbursement of the Initial Term Loans hereunder on the Closing Date.

"U.S." and "United States" mean the United States of America.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning given to such term in Section 4.04(f).

"UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

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

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

"Unasserted Contingent Obligations" has the meaning given to such term in the Guaranty and Security Agreement.

"Unused DDTL Commitment Fee" has the meaning given to such term in Section 3.01(b).

"Unfunded Current Liability" of any Plan means the amount, if any, by which the value of the accumulated plan benefits under the Plan, determined on a plan termination basis in accordance with actuarial assumptions at such time consistent with those prescribed by the PBGC for purposes of Section 4044 of ERISA, exceeds the fair market value of all plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions).

"Voting Stock" means, with respect to any Person, shares of such Person's Capital Stock having the right to vote for the election of directors (or Persons acting in a comparable capacity) of such Person under ordinary circumstances.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, the effects of any prepayments made on such Indebtedness prior to the date of the applicable extension shall be disregarded.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

"Withholding Agent" means any Loan Party and the Administrative Agent.

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

"Yield Differential" has the meaning given to such term in Section 2.08(c)(ii).

Other Interpretive Provisions

With reference to this Loan Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

The words "herein", "hereto", "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

Article, Section, clause, Exhibit and Schedule references are to the Loan Document in which such reference appears.

The terms "include", "includes" and "including" are by way of example and not limitation, and shall be deemed to be followed by the words "without limitation" whether or not they are in fact followed by such words.

The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

The Table of Contents and Article, Section and clause headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Loan Agreement or any other Loan Document.

Notwithstanding anything to the contrary contained in this Loan Agreement, the Administrative Agent and the Hayfin Parties shall not be considered Affiliates of the Loan Parties.

Accounting Terms and Principles

All accounting terms not specifically or completely defined herein shall be construed, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Loan Agreement (including Section 8.01) shall be prepared by an Authorized Officer, in conformity with GAAP, consistently applied, (in each case, except as otherwise specifically prescribed herein). No change in the accounting principles used in the preparation of any financial statement hereafter adopted by the Borrower or any of its Subsidiaries shall be given effect for purposes of measuring compliance with any provision of Article IX, including Section 9.13, or otherwise in this Loan Agreement in each case, unless the Borrower, the Administrative Agent and Required Lenders agree in writing to modify such provisions to reflect such changes and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to in Article IX shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Loan Party or any Subsidiary of any Loan Party at "fair value". A breach of a financial covenant contained in Article IX shall be deemed to have occurred as of the last day of any specified measurement period, regardless of when the financial statements reflecting such breach are delivered or required to be delivered to any Agent or any Lender. In addition, any lease treated as an operating lease on the date it is entered into shall continue to be treated as an operating lease during the term of this Loan Agreement notwithstanding a change in the treatment thereof to a Capitalized Lease in accordance with any change in GAAP. Notwithstanding anything to the contrary contained herein, all obligations of any Person that are or would have been treated as operating leases (including for avoidance of doubt, any network lease or any operating indefeasible right of use) for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the "ASU") shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purpose of this Loan Agreement (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as Capital Lease Obligations in the financial statements to be delivered pursuant to Section 8.01.

Rounding

Any financial ratios required to be maintained or complied with by any Loan Party pursuant to this Loan Agreement (or required to be satisfied in order for a specific action to be permitted under this Loan Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

References to Agreements, Laws, etc

Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including this Loan Agreement and each of the other Loan Documents) and other Contractual Obligations shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Loan Document, and (b)

references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Times of Day

Unless otherwise specified, all references herein to times of day shall be references to Eastern Time (daylight saving or standard, as then applicable).

Timing of Payment of Performance

When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

Corporate Terminology

All references to officers, shareholders, stock, shares, directors, boards of directors, corporate authority, articles of incorporation, bylaws or other matters relating to a corporation, herein or in any other Loan Document, with respect to a Person that is not a corporation, mean and are references to the comparable terms used with respect to such Person.

Independence of Provisions

This Loan Agreement and the other Loan Documents may use different limitations, tests, "baskets", thresholds or other measurements to regulate the same or similar matters. All such limitations, tests, "baskets", thresholds and other measurements are cumulative, and each must be performed or complied with independently of all others.

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): any reference to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person and any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

[Reserved]

Limited Condition Acquisition

In the case of determining compliance with (i) the Total Net Leverage Ratio (x) required pursuant to Section 2.08(b)(iv) in connection with a Borrowing of any Incremental Term Loan, (y) described in clause (b) of the definition of Permitted Acquisition or (z) required pursuant to Section 6.05 in connection with a Borrowing of any DDTL, (ii) the representations and warranties described in (x) Section 2.08(b)(ii) in connection with a

Borrowing of any Incremental Term Loan or (y) Section 6.04 in connection with the Borrowing of any DDTL, (iii) the absence of any Default or Event of Default (other than a Default or Event of Default under Sections 10.01(a), (i) or (k)) described in (x) Section 2.08(b)(i) in connection with a Borrowing of Incremental Term Loan, (y) Section 6.02 in connection with a Borrowing of DDTL or (z) clause (a) of the definition of Permitted Acquisition and (iv) the absence of any Material Adverse Effect described in (x) Section 2.08(b)(iii) in connection with a Borrowing of Incremental Term Loan and (y) Section 6.08 in connection with a Borrowing of DDTL, in each case of clauses (i), (ii) and (iii), in connection with a Limited Condition Acquisition, the determination of whether the relevant condition is satisfied may be made, at the written election (to the Administrative Agent) of the Borrower, shall be determined as of the date a definitive acquisition agreement for such Limited Condition Acquisition is entered into, and calculated as if such Limited Condition Acquisition (and any other pending Limited Condition Acquisition) and other pro forma events in connection therewith (and in connection with any other pending Limited Condition Acquisition), including the incurrence of Indebtedness, were consummated on such date.

AMOUNT AND TERMS OF CREDIT FACILITIES

Commitments and Loans

Initial Term Loans. Subject to and upon the terms and conditions set forth herein and in reliance upon the representation and warranties of the Loan Parties contained herein, each Initial Term Loan Lender agrees, severally and not jointly, to make in Dollars a loan or loans (each, an "Initial Term Loan") to the Borrower on the Closing Date in an amount equal to such Initial Term Loan Lender's Initial Term Loan Commitment. All such Initial Term Loans in the aggregate shall not exceed the Total Initial Term Loan Commitment. Such Initial Term Loans may be repaid or prepaid in accordance with the terms and conditions hereof, but once repaid or prepaid may not be re-borrowed.

DDTLs. Subject to and upon the terms and conditions set forth herein and in reliance upon the representation and warranties of the Loan Parties contained herein, each DDTL Lender agrees, severally and not jointly, to make in Dollars a loan or loans (each, a "DDTL") from time to time after the Closing Date until the DDTL Commitment Expiration Date on not more than five (5) occasions, in an aggregate principal amount not to exceed its DDTL Commitment. All such DDTLs in the aggregate shall not exceed the Total DDTL Commitment. Such DDTLs may be repaid or prepaid in accordance with the terms and conditions hereof, but once repaid or prepaid may not be re-borrowed. The DDTLs and the Initial Term Loans shall be deemed to part of the same Class of Loans for all purposes under this Loan Agreement.

Each Lender may, at its option, make any Loan in its entirety by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided, that (i) any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms hereof and (ii) in exercising such option, such Lender shall use reasonable efforts to minimize any increased costs to the Borrower resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it, and in the event of any Lender request for costs for which compensation is provided under this Loan Agreement, the provisions of Section 2.06 shall apply).

Each Loan shall be made as part of a Borrowing consisting of Loans of the same Class made by the applicable Lenders ratably in accordance with their respective Commitments of the applicable Class.

Disbursement of Funds

Each Borrowing shall be made upon the Borrower's irrevocable written notice delivered to the Administrative Agent in the form of a Borrowing Notice, which notice must be received by the Administrative Agent prior to 9:00 a.m. (New York City time) on the day which is twelve (12) Business Days (or such shorter period, as the Administrative Agent may agree) prior to the requested Borrowing date.

Each Borrowing Notice shall specify:

the Class of such Borrowing;

the amount of the Borrowing, which, in the case of a Borrowing of a DDTL, shall be in compliance with clause (h) of this Section 2.02;

the requested Borrowing date, which shall be a Business Day;

the number and location of the account (which, for any Borrowing that occurs on or after the DACA Compliance Date, shall be an account subject to an Account Control Agreement) to which funds are to be disbursed; and

the Interest Period applicable to such Loans.

Upon receipt of such Borrowing Notice, the Administrative Agent shall promptly notify each applicable Lender of its *pro rata* portion of the Borrowing. Each applicable Lender will make available its *pro rata* portion of the applicable Loans to be made by it in the manner provided below by no later than 1:00 p.m. on the date of the Borrowing.

Each applicable Lender shall make available to the Administrative Agent in immediately available funds, in Dollars, all amounts such Lender is required to fund to the Borrower, and, following receipt of all requested funds in an account designated by the Administrative Agent, the Administrative Agent will make available to the Borrower in immediately available funds, in Dollars, the aggregate of the amounts so made available, by remitting such aggregate amount to the account (which, for any Borrowing that occurs on or after the DACA Compliance Date, must be subject to an Account Control Agreement) specified in the applicable Borrowing Notice. The failure of any Lender to make available the amounts it is required to fund hereunder or to make a payment required to be made by it under any Loan Document shall not relieve any other Lender of its obligations under any Loan Document, but no Lender shall be responsible for the failure of any other Lender to make any payment required to be made by such other Lender under any Loan Document.

Nothing in this Section 2.02 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder).

Borrowings of more than one Class may be outstanding at the same time; provided, that there shall not at any time be more than a total of four (4) different Interest Periods

in effect at any time (or such greater number of different Interest Periods as the Administrative Agent may agree from time to time).

Notwithstanding any other provision of this Loan Agreement, the Borrower shall not, nor shall it be entitled to, request (x) any Borrowing if the initial Interest Period applicable thereto would end after the Maturity Date applicable to such Loans, (y) more than five (5) Borrowings of DDTLs during the life of this Loan Agreement and (z) a Borrowing of DDTLs on or after the DDTL Commitment Expiration Date.

Each Borrowing in respect of DDTL Commitments shall comprise an aggregate principal amount of not less than $5,000,000.

Repayment of Loans

[Reserved].

The Borrower agrees to pay to the Administrative Agent (i), for the benefit of the Initial Lenders, on the Initial Loans Maturity Date, the principal amount of the Initial Loans then outstanding, together with all accrued interest thereon, any applicable Prepayment Premium and all fees, expenses payable under the terms of the Loan Documents and other Obligations accrued in respect thereof, and (ii) for the benefit of the applicable Additional Incremental Term Loan Lenders, on the applicable Additional Incremental Term Loan Maturity Date, the principal amount of the applicable Additional Incremental Term Loans, together with all accrued interest thereon, and all fees, expenses payable under the terms of the Loan Documents and other Obligations accrued in respect thereof.

Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Loan Agreement.

[Reserved].

[Reserved].

The Borrower hereby irrevocably authorizes each Lender to make (or cause to be made) appropriate notations on the grid attached to such Lender's Note(s) (or on any continuation of such grid), which notations, if made, shall be delivered to or otherwise available to the Borrower and shall be prima facie evidence (absent manifest error) of, among other things, the date of, the outstanding principal amount of, and the interest rate and Interest Period applicable to, the Loans evidenced thereby. Such notations shall, to the extent not inconsistent with notations made by Administrative Agent in the Register, be conclusive and binding on each Loan Party absent manifest error; provided, that the failure of any Lender to make any such notations shall not limit or otherwise affect any Obligations of any Loan Party. The Administrative Agent shall maintain the Register pursuant to Section 12.06(b)(iv).

The entries made in the Register and accounts maintained pursuant to Section 2.03(c) and (f) shall, to the extent permitted by Applicable Law, be prima facie evidence (absent manifest error) of the existence and amounts of the obligations of the Borrower recorded therein; provided, that the failure of any Lender or Administrative Agent to maintain such account or such Register, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to the Borrower by such Lender in accordance with the terms of this Loan Agreement. For avoidance of doubt, in the

event of any inconsistency between the Register and any Lender's records under Section 2.03(c) and (f), the recordations in the Register shall govern.

Pro Rata Borrowings

The Initial Term Loans under this Loan Agreement shall be made by the Initial Term Loan Lenders *pro rata* on the basis of their Initial Term Loan Commitments. Any DDTL under this Loan Agreement shall be made by the DDTL Lenders *pro rata* on the basis of their DDTL Commitments. Any Incremental Term Loans under this Loan Agreement shall be made by the applicable Incremental Term Loan Lenders *pro rata* on the basis of their applicable Incremental Term Loan Commitments. No Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder, and each Lender shall be obligated to make the Loans, as applicable, provided to be made by it hereunder regardless of the failure of any other Lender to fulfill its commitments hereunder.

Interest

Subject to Section 2.05(c) and Section 2.05(f), interest shall accrue during any Interest Period on the unpaid principal amount of each Loan from the date of the making thereof to but excluding the date of any repayment thereof, at a rate per annum equal to the LIBOR Rate for the applicable Interest Period in effect hereunder from time to time plus the Applicable Margin.

Except as otherwise explicitly provided in this Loan Agreement, interest accrued on each Loan shall be payable in cash in arrears on the Interest Payment Dates applicable to such Loan. The applicable LIBOR Rate for each Interest Period or day within an Interest Period, as the case may be, shall be determined by the Administrative Agent (acting reasonably), and such determination shall be conclusive absent manifest error.

From and after the occurrence and during the continuance of any Event of Default, the Borrower shall pay interest on the principal amount of all outstanding Loans and all other unpaid Obligations, to the extent permitted by Applicable Law, at the rate applicable to such Loans pursuant to Section 2.05(a) plus three percent (3.0%) per annum (and, in the case of Obligations other than Loans, at a rate of interest equal to the Prime Rate plus the Applicable Margin plus three percent (3.0%) per annum). All such additional interest shall be payable in cash on demand, and such increase shall apply (x) in the case of an Event of Default under Section 10.01(k), automatically upon the date of occurrence of such Event of Default, and (y) in the case of any other Event of Default, upon the written election of the Required Lenders, retroactively from the first date of occurrence of such Event of Default.

All computations of interest hereunder shall be made in accordance with Section 4.06.

[Reserved].

In no event shall the interest rate or rates payable under this Loan Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Each of the Loan Parties, the Administrative Agent and the Lenders, in executing and delivering this Loan Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided, however, that, anything contained herein to the contrary notwithstanding, if said rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, *ipso facto*, as of the date of this Loan Agreement, the Borrower is and shall be liable only for the payment of such maximum as

allowed by applicable law, and payment received from the Borrower in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Loans and Obligations to the extent of such excess.

Increased Costs, Illegality, etc

In the event that (x) in the case of clause (i) below, the Administrative Agent or (y) in the case of clauses (ii) and (iii) below, any Lender, in each case, shall have determined in good faith (which good faith determination shall, absent demonstrable error, be final and conclusive and binding upon all parties hereto):

on any date for determining the LIBOR Rate for any Interest Period that (A) deposits in the principal amounts of the Loans are not generally available in the relevant market or (B) by reason of any changes arising after the Closing Date affecting the interbank Eurodollar market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBOR Rate; or

at any time, after the later of the Closing Date and the date such Person became a Lender hereunder, that such Lender shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Loan, including costs arising from Taxes (other than (x) Indemnified Taxes, (y) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (z) Connection Income Taxes) because of any change since the date hereof in any Applicable Law (or in the interpretation or administration thereof and including the introduction of any new Applicable Law), such as, for example, without limitation, a change in official reserve requirements; or

at any time, that the making or continuance of any Loan has become unlawful (including as a result of any Change in Law) by compliance by such Lender in good faith with any Applicable Law (or would conflict with any such Applicable Law), or has become impracticable as a result of a contingency occurring after the date hereof that materially and adversely affects the interbank Eurodollar market,

then, and in any such event, such Lender (or the Administrative Agent, in the case of clause (i) above) shall promptly give written notice to the Borrower and the Administrative Agent of such determination, and the Administrative Agent shall promptly notify each of the Lenders. Thereafter (A) in the case of clause (i) above, Loans shall no longer accrue interest with reference to the LIBOR Rate pursuant to Section 2.05(a) and, in lieu thereof, shall accrue interest under Section 2.05(a) at a rate per annum equal to the Prime Rate plus the Applicable Margin until such time as the Administrative Agent notifies the Borrower, the Collateral Agent and the Lenders that the circumstances giving rise to such notice by the Administrative Agent no longer exist (which notice the Administrative Agent agrees to give at such time when it becomes aware that such circumstances no longer exist), (B) in the case of clause (ii) above, the Borrower shall pay to such Lender, within seven (7) Business Days after receipt of written demand therefor, such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (C) in the case of clause (iii) above, the Borrower shall take

the actions specified by Applicable Law as promptly as possible and, in any event, within the time period required by Applicable Law.

If, after the later of the date hereof and the date such entity becomes a Lender hereunder, the adoption of any Law, rule, guideline, request or directive (including, regardless of the date enacted, adopted or issued, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act, and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) 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), whether or not having the force of law, regarding capital adequacy, or any Change in Law occurs, or compliance by a Lender (or its lending office) or its parent with any request or directive made or adopted after such date regarding capital adequacy (whether or not having the force of law) of any such authority, association, central bank or comparable agency, in any such case, which has the effect of reducing the rate of return on such Lender's or its parent's capital or assets as a consequence of such Lender's commitments or obligations hereunder to a level below that which such Lender or its parent could have achieved but for such adoption, effectiveness, change or compliance (taking into consideration such Lender's or its parent's policies with respect to capital adequacy), then within seven (7) Business Days after receipt of written demand by such Lender (with a copy to the Administrative Agent), the Borrower shall pay to such Lender or its parent such additional amount or amounts as will compensate such Lender for such reduction; provided, however, that a Lender shall not be entitled to such compensation as a result of such Lender's compliance with, or pursuant to any request or directive to comply with, any such Applicable Law as in effect on the date hereof or the later date on which it becomes a Lender, as the case may be. Each Lender (on its own behalf), upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.06(b), will, as promptly as practicable upon ascertaining knowledge thereof, give written notice thereof to the Borrower, which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts. The failure or delay to give any such notice with respect to a particular event shall not release or diminish any of the Borrower's obligations to pay additional amounts pursuant to this Section 2.06(b) for amounts accrued or incurred prior to the date that such notice with respect to such event is actually given, unless such notice is given more than 180 days (or such longer period based on any retroactive effect as described in Section 2.06(a)) after Lender has knowledge of any such event.

If at any time the Administrative Agent determines (which determination shall be conclusive absent manifest error) that either (i) the circumstances set forth in subparagraph (a) of this Section 2.06 have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in subparagraph (a) of this Section 2.06 have not arisen but the supervisor for the administrator of the LIBOR Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBOR Rate shall no longer be used for determining interest rates for loans (in the case of either such clause (i) or (ii), an "Alternative Interest Rate Election Event"), the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for leveraged syndicated loans in the United States at such time, and shall enter into an amendment to this Loan Agreement to reflect such alternate rate of interest and such other related changes to this Loan Agreement as may be applicable. Notwithstanding anything to the contrary in Section 12.01, such amendment shall become effective without any further action or consent of any other party to this Loan Agreement so long as the Administrative Agent shall not have received, within five (5) Business Days after the date notice of such alternate rate of interest is provided to the Lenders, a written notice from Required Lenders stating that they object to such amendment. To the extent an alternate rate of interest is adopted as contemplated hereby, the approved rate shall be applied in a manner consistent with

prevailing market convention; provided that, to the extent such prevailing market convention is not administratively feasible for the Administrative Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent and the Borrower. Notwithstanding anything herein to the contrary, if such alternate rate of interest as determined in this subparagraph (c) is determined to be less than 1.5%, such rate shall be deemed to be 1.5% for the purposes of this Loan Agreement.

Compensation

If (a) any payment of principal of a Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Loan as a result of a payment pursuant to Sections 2.03, 4.01 or 4.02, as a result of acceleration of the maturity of the Loans pursuant to Article X or for any other reason, or (b) any prepayment of principal of a Loan is not made as a result of a withdrawn notice of prepayment pursuant to Sections 4.01 or 4.02, the Borrower shall, within seven (7) Business Days after receipt of a written request by such Lender (with a copy of such request provided to the Administrative Agent and which request shall set forth in reasonable detail the basis for requesting such amount), pay to the Administrative Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment or failure to prepay, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund or maintain such Loan.

Incremental Term Loans.

Subject to the terms and conditions set forth herein, the Borrower may, from time to time after the earlier to occur of (x) the termination of all DDTL Commitments and (y) the DDTL Commitment Expiration Date, by written notice to the Administrative Agent (each, an "Incremental Facility Request"), request to add one or more additional tranches of incremental term loan facilities and/or increase the principal amount of the Loans of any existing Class (each, an "Incremental Term Loan Commitment" and the term loans thereunder, an "Incremental Term Loan"; each Incremental Term Loan Commitment is sometimes referred to herein individually as an "Incremental Facility" and collectively as the "Incremental Facilities"); provided, that the Aggregate Incremental Amount shall not exceed the Incremental Cap. Any Incremental Term Loan Commitment may be provided by, subject to Section 2.08(c)(v), (A) any existing Lender or any Affiliate of any Lender and/or (B) any other Person other than any natural person, any Loan Party or to any Affiliate of any Loan Party, or any Person that is a Disqualified Institution (any such Person that provides an Incremental Term Loan Commitment in accordance with this Section 2.08, including, without limitation, clause (c)(v) hereof, an "Incremental Term Loan Lender"). No Lender shall be obligated to provide any Incremental Facility, and the determination to provide such commitments shall be within the sole and absolute discretion of such Lender. Such Incremental Facility Request shall set forth (i) the amount of the Incremental Term Loan Commitment being requested, (ii) the date (an "Incremental Effective Date") on which such Incremental Facility is requested to become effective (which, unless otherwise agreed by Administrative Agent, shall not be less than ten (10) Business Days nor more than sixty (60) days after the date of such notice), and (iii) the Borrower's proposed potential lenders thereof.

Each Incremental Facility and each Incremental Term Loan Lender's obligation to fund the Incremental Term Loans thereunder shall become effective as of the Incremental Effective Date of such Incremental Facility so long as, after giving effect to such Incremental Facility, the Incremental Term Loans to be made thereunder (assuming that the entire amount of such Incremental Facility is funded), and the application of the proceeds therefrom:

subject to Section 1.12, no Default or Event of Default shall exist immediately prior to or after giving effect to such Incremental Facility and the funding of the Incremental Term Loans thereunder;

subject to Section 1.12, the representations and warranties of the Loan Parties set forth in this Loan Agreement and each other Loan Document, shall be true and correct in all material respects on and as of the Incremental Effective Date (except to the extent that any such representation or warranty is expressly stated to have been made as of an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date); provided 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 on such respective dates;

subject to Section 1.12, no event, change or condition shall have occurred since December 31, 2019 that has had or could reasonably be expected to have a Material Adverse Effect;

subject to Section 1.12, as of the last day of the most recently completed Test Period, the Total Net Leverage Ratio recomputed on a pro forma basis for such Incremental Term Loans shall not exceed 3.50:1.00;

the proceeds of such Incremental Term Loan shall be used in accordance with Section 8.12;

on the Incremental Effective Date of such Incremental Facility, after giving effect thereto, Hayfin Lenders collectively hold not less than 50.1% of the aggregate outstanding principal amount of the Loans (including such Incremental Term Loan (which, for purposes of this clause (vi), shall be deemed fully funded on such Incremental Effective Date); and

the Administrative Agent shall have received:

the Incremental Facility Request that sets forth the requested amount and proposed terms of the requested Incremental Facility and the Incremental Effective Date;

a certificate of a Responsible Officer certifying as to the foregoing clauses (i), (ii), (iii), (iv) and (v);

a Solvency Certificate substantially in the form of Exhibit G duly executed by the chief financial officer of the Borrower confirming the Solvency of the Borrower and of each of the other Loan Parties and their Subsidiaries, taken as a whole, after giving effect to Borrowing of such Incremental Term Loans and the application of the proceeds thereof;

legal opinions with respect to customary matters, board resolutions, Notes (to the extent requested by the applicable Incremental Term Loan Lenders) and other customary closing certificates reasonably requested by the Administrative Agent, in each case consistent with those delivered on the Closing Date;

guaranty and Lien reaffirmations as may be reasonably be requested by the Collateral Agent; and

from each proposed Incremental Term Loan Lender that is not (immediately prior to the effectiveness of the Incremental Facility) a Lender, an Administrative Questionnaire and such other documents, information and forms (including, without limitation, tax forms) as the Administrative Agent may request from such proposed Incremental Term Loan Lender.

Terms.

The final maturity date of any Incremental Term Loan that is a separate Class from the Initial Loans (a "Additional Incremental Term Loan"; any Lender that holds an Additional Incremental Term Loan, a "Additional Incremental Term Loan Lender") shall be no earlier than the Initial Loan Maturity Date and the Weighted Average Life to Maturity of any such Incremental Term Loan shall not be shorter than the Weighted Average Life to Maturity of any then-existing Class of the Initial Loans (prior to any extension thereto). Such pricing and maturity date with respect to any Additional Incremental Term Loan shall be set forth in the applicable Incremental Joinder Agreement (any such maturity date, a "Additional Incremental Term Loan Maturity Date").

The interest rate (including margin and floors) applicable to any Incremental Term Loans will be determined by the Borrower and the Lenders providing such Incremental Term Loans. If the initial all-in yield (including interest rate margins, any interest rate floors, original issue discount and upfront fees (based on the lesser of a four-year average life to maturity or the remaining life to maturity), but excluding arrangement, structuring and underwriting fees with respect to such Incremental Term Loan) applicable to any Incremental Term Loan exceeds by more than 0.50% per annum the corresponding all-in yield (determined on the same basis) applicable to the then outstanding Initial Term Loans, the DDTLs, or any outstanding prior Incremental Term Loan to the extent consisting of Initial Loans (each, an "Existing Facility" and the amount of such excess above 0.50% being referred to herein as the "Yield Differential"), then the Applicable Margin with respect to each Existing Facility, as the case may be, shall automatically be increased by the Yield Differential, effective upon the making of such Incremental Term Loan (it being agreed that to the extent the all-in-yield with respect to such Incremental Term Loan is greater than the all-in-yield of an Existing Facility solely as a result of a higher LIBOR floor, then the increased interest rate applicable to an Existing Facility shall be effected solely by increasing the LIBOR floor applicable thereto.

Except with respect to pricing and final maturity as set forth in this clause (c), each Incremental Term Loan shall be on the same terms as the Initial Term Loans (including, without limitation, with respect to any mandatory prepayments).

Any Incremental Term Loans may be repaid or prepaid in accordance with the terms and conditions hereof, but once repaid or prepaid may not be re-borrowed.

Each Hayfin Lender shall be afforded a right of first refusal to provide its *pro rata share* (calculated on the basis solely of the then outstanding Loans and unused Commitments of all Hayfin Lenders) of any Incremental Facility; provided, that, upon written notice to the Administrative Agent and the Borrower prior to the closing of the applicable Incremental Facility, the Hayfin Lenders may agree to allocate all or some of such Incremental Facility in a non-pro rata manner amongst all or some of the Hayfin Lenders or other Hayfin Parties. In the event that the Hayfin Lenders (or other Hayfin Parties) decline to commit, or fail to commit within fifteen (15) Business Days of

the Borrower's written request to the Hayfin Lenders, to provide the entire requested amount of any Incremental Facility, the Borrower may, with the prior written consent of the Administrative Agent (not to be unreasonably withheld, conditioned or delayed), seek one or more new Persons (except any natural person, any Loan Party or to any Affiliate of any Loan Party, or any Person that is a Disqualified Institution) to be added as Incremental Term Loan Lenders for purposes of providing the portion of such Incremental Term Loan Commitment in such Incremental Facility not so provided by the Hayfin Lenders (or other Hayfin Parties). Notwithstanding anything to the contrary contained in this Section 2.08, for purposes of this clause (c)(v), the Hayfin Lenders shall be afforded a period of at least fifteen (15) consecutive Business Days to consider the final terms, economics, conditions and documentation of any proposed Incremental Facility proposed by the Borrower and determine whether to participate (or select another Hayfin Party to participate) in such Incremental Facility.

Required Amendments. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Facility, this Loan Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence of such Incremental Facility and the Incremental Term Loans evidenced thereby, and any joinder agreement or amendment by Borrower, each existing Lender providing the Incremental Term Loan Commitment under such Incremental Facility and the other Incremental Term Loan Lender under such Incremental Facility (each an "Incremental Joinder Agreement"), may, without the consent of any other Lenders, effect such amendments to this Loan Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of Administrative Agent and Borrower, to effect the provisions of this Section 2.08(d) (including any amendments that are not adverse to the interests of any Lender (solely in its capacity as a Lender hereunder) that are made to effectuate changes necessary to enable any Incremental Term Loans that are intended to be of the same Class as the Initial Loans to be of the same Class as such Initial Loans (or any Incremental Term Loans that are intended to be of the same Class as previous Incremental Term Loans (incurred as a separate Class from the Initial Loans) to be of the same Class as such previous Incremental Term Loans). For the avoidance of doubt, this Section 2.08(d) shall supersede any provisions in Section 12.01 to the contrary. From and after each Incremental Effective Date, the Incremental Term Loans and Incremental Term Loan Commitments established pursuant to this Section 2.08 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Loan Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the guarantees and security interests created by the applicable Security Documents. The Loan Parties shall take any actions reasonably required by Administrative Agent or the Collateral Agent to ensure and/or demonstrate that the Liens and security interests granted by the applicable Security Documents continue to be perfected under the UCC or otherwise after giving effect to the establishment of any such new Loans and Commitments, including compliance with Section 8.15.

Notes

To the extent requested by any Lender, the Borrower shall execute and deliver (x) to the extent requested by such Lender prior to the Closing Date, on the Closing Date and (y) to the extent requested by such Lender after the Closing Date, promptly (and in any case, within five (5) Business Days of such request), one or more notes (as requested by such Lender) payable to such Lender which in the aggregate equal the amount of such Lender's Loans made payable to such Lender in substantially the form of Exhibit A-1 (each, a "Note", and collectively, the "Notes").

Termination of Commitments.

The Initial Term Loan Commitments of each Initial Term Loan Lender shall automatically terminate upon the making of such Initial Term Loan Lender's Initial Term Loans pursuant to Section 2.01(a) on the Closing Date.

Upon the effectiveness of any Borrowing of DDTL, the DDTL Commitments of each DDTL Lender shall be automatically reduced by the aggregate principal amount of DDTL made by such DDTL Lender pursuant to such Borrowing. Any outstanding DDTL Commitments of each DDTL Lender shall automatically terminate on the DDTL Commitment Expiration Date.

Any Incremental Term Loan Commitments of any Class shall automatically terminate upon the making of the Incremental Term Loans of such Class pursuant to Section 2.08(a).

FEES, PREMIUMS AND COMMITMENT TERMINATIONS

Fees

Fee Letter. The Borrower agrees to pay to the Administrative Agent and each Lender, as applicable, all of the fees in the amounts and at the times set forth in the Fee Letter.

DDTL Commitment Fee.

The Borrower shall pay to the Administrative Agent a fee (the "Unused DDTL Commitment Fee"), for the account of each DDTL Lender, in an amount per annum equal to:

The average daily balance of the DDTL Commitment of such DDTL Lender during each fiscal quarter or portion thereof from the date hereof to the DDTL Commitment Expiration Date;

multiplied by one percent (1.00%).

The total Unused DDTL Commitment Fee paid by Borrower will be equal to the sum of all of the Unused DDTL Commitment Fees due to the DDTL Lenders. Such fee shall be payable quarterly in arrears on the first day of each fiscal quarter commencing with the fiscal quarter ending on September 30, 2020 and on the DDTL Commitment Expiration Date.

The Unused DDTL Commitment Fee provided in this Section 3.01(b) shall accrue at all times from and after date hereof through the DDTL Commitment Expiration Date.

Prepayment Premiums

Upon the occurrence of a Prepayment Premium Trigger Event, the Borrower shall pay to the Administrative Agent, for the account of the Lenders holding the Loans being prepaid (or deemed prepaid), the Prepayment Premium. Notwithstanding anything to the contrary in this Loan Agreement or any other Loan Document, it is understood and agreed that if the Obligations are accelerated as a result of the occurrence and continuance of any Event of Default (including by operation of law or otherwise), the Prepayment Premium, if any,

determined as of the date of acceleration, will also be due and payable and will be treated and deemed as though the Loans were prepaid as of such date and shall constitute part of the Obligations for all purposes herein. Any Prepayment Premium payable pursuant to this Section 3.02 shall be presumed to be equal to the liquidated damages sustained by the Lenders as the result of the occurrence of the Prepayment Premium Trigger Event, and the Borrower and Guarantors agree that it is reasonable under the circumstances currently existing. The Prepayment Premium, if any, shall also be payable in the event the Obligations (and/or this Loan Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. THE BORROWER AND GUARANTORS EXPRESSLY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING PREPAYMENT PREMIUM IN CONNECTION WITH ANY SUCH ACCELERATION. The Borrower and Guarantors expressly agree that (a) the Prepayment Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (b) the Prepayment Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made, (c) there has been a course of conduct between Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Prepayment Premium, (d) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this Section 3.02, (e) their agreement to pay the Prepayment Premium is a material inducement to the Lenders to provide the Commitments and make the Loans, and (f) the Prepayment Premium represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Lenders or profits lost by the Lenders as a result of any Prepayment Premium Trigger Event.

PAYMENTS

Voluntary Prepayments

The Borrower shall have the right to prepay Loans in whole or in part from time to time on the following terms and conditions:

as a specifically negotiated requirement, additional consideration for providing the Loans, and an important economic provision upon which the Agents and the Lenders are relying, the Borrower shall deliver to the Administrative Agent written notice of the Borrower's intent to make such prepayment and the amount of such prepayment, by 3:00 p.m. no less than five (5) Business Days prior to the date of such prepayment, specifying the date on which such prepayment is to be made;

a notice delivered pursuant to Section 4.01(a)(i) shall be irrevocable, shall obligate the Borrower to prepay the amount specified in such notice on the date specified therein together with accrued interest thereon and the applicable Prepayment Premium, if any, all of which shall become due and payable on the prepayment date set forth in such notice; provided that notwithstanding the foregoing any such voluntary prepayment occurring as a result of a Change of Control, a refinancing of the Obligations or another material transaction specified in the relevant notice may be conditional upon the closing of any such transaction;

each partial prepayment of any Loans shall be in a multiple of $50,000 and in an aggregate principal amount of at least $250,000;

each prepayment of Loans pursuant to this Section 4.01 on any day other than the last day of the applicable Interest Period shall be subject to compliance by the Borrower with the applicable provisions of Section 2.07; and

on the date of prepayment of any Loan pursuant to this Section 4.01, the Borrower shall pay to the Administrative Agent, for the benefit of the Lenders, the applicable Prepayment Premium, if any.

Each prepayment pursuant to this Section 4.01 shall be applied *pro rata* to the Loans (and *pro rata* among and within each Class of Loans) based on the outstanding principal amounts thereof.

Notwithstanding anything in Section 4.01(a) to the contrary, if any Lenders decline all or any portion of any mandatory payment in accordance with Section 4.05, any voluntary prepayment of the applicable Loans that occurs within three (3) Business Days of the date that the applicable Lenders decline such mandatory prepayment in an amount equal to such declined proceeds, shall: (i) be excluded from the notice and minimum amount requirements of Sections 4.01(a)(i) and 4.01(a)(iii), and (ii) be applied to reduce the Loans and the Prepayment Premium that would have been applicable to such amount if accepted as a mandatory prepayment under Section 4.02(a).

Mandatory Prepayments

The Borrower shall prepay the Loans in accordance with the following:

Concurrently with the incurrence of any Indebtedness by any Loan Party or any of its Subsidiaries (other than Indebtedness permitted under Section 9.01), the Borrower shall (x) prepay the Loans in an amount equal to one hundred percent (100%) of the applicable Net Debt Proceeds, to be applied as set forth in Section 4.02(b) and (y) pay the applicable Prepayment Premium, if any. Nothing in this Section 4.02(a)(i) shall be construed to permit or waive any Default or Event of Default arising from any incurrence of Indebtedness not permitted under the terms of this Loan Agreement.

Within five (5) Business Days of the receipt by any Loan Party or any of its Subsidiaries of any proceeds from any Disposition under Section 9.04(a) or (b) in excess of $1,500,000, the Borrower shall prepay the Loans in an amount equal to one hundred percent (100%) of the Net Disposition Proceeds from such Disposition, to be applied as set forth in Section 4.02(b), and, solely to the extent such Disposition is with respect to all or substantially all of the assets of the Loan Parties and their Subsidiaries taken as a whole, the Borrower shall pay the applicable Prepayment Premium, if any; provided, however, that the Borrower may, at its option by written notice to the Administrative Agent on or prior to the date of the Disposition giving rise to such Net Disposition Proceeds, within one hundred eighty (180) days after such event, reinvest or commit to reinvest such Net Disposition Proceeds in fixed assets to be used in the business of the Borrower and its Subsidiaries so long as (A) [reserved], (B) no Default or Event of Default has occurred and is continuing, and the Borrower certifies in writing to the Administrative Agent that no Default or Event of Default has occurred and is continuing, (C) such Net Disposition Proceeds are held in an account subject to an Account Control Agreement while awaiting reinvestment and (D) the Borrower shall be in compliance with Section 9.13(~~b~~c) on a pro forma basis after giving effect to such reinvestment; provided further, that, if such Net Disposition Proceeds are committed to be reinvested within such one hundred eighty (180) period, such Net Disposition Proceeds shall actually be reinvested within an additional one hundred twenty (120) day

period. Nothing in this Section 4.02(a)(ii) shall be construed to permit or waive any Default or Event of Default arising from any Disposition not permitted under the terms of this Loan Agreement.

Within five (5) Business Days of the receipt by any Loan Party or any of its Subsidiaries of any proceeds from any Casualty Event in excess of $1,000,000, the Borrower shall prepay the Loans in an amount equal to one hundred percent (100%) of such Net Casualty Proceeds, to be applied as set forth in Section 4.02(b); provided, however, that the Borrower may, at its option by written notice to the Administrative Agent no later than one hundred eighty (180) days following the occurrence of the Casualty Event resulting in such Net Casualty Proceeds, apply such Net Casualty Proceeds to the rebuilding or replacement of such damaged, destroyed or condemned assets or property or reinvested in fixed assets to be used in the business of the Borrower and its Subsidiaries so long as such Net Casualty Proceeds are in fact used or are committed to be used to rebuild or replace the damaged, destroyed or condemned assets or property within such one hundred eighty (180) days following the receipt of such Net Casualty Proceeds, with the amount of Net Casualty Proceeds not so used after such period to be applied as set forth in Section 4.02(b); so long as (A) no Default or Event of Default has occurred and is continuing, and the Borrower certifies in writing to the Administrative Agent that no Default or Event of Default has occurred and is continuing, (B) such Net Casualty Proceeds are held in an account subject to an Account Control Agreement while awaiting reinvestment and (C) the Borrower shall be in compliance with Section 9.13(~~b~~c) on a pro forma basis after giving effect to such reinvestment; provided further, that, if such Net Casualty Proceeds are committed to be reinvested within such one hundred eighty (180) day period, such Net Casualty Proceeds shall be actually reinvested within an additional one hundred twenty (120) days. Nothing in this Section 4.02(a)(iii) shall be construed to permit or waive any Default or Event of Default arising, directly or indirectly, from any Casualty Event. It is understood and agreed the Prepayment Premium is not due and payable for payments under this clause (iii).

[reserved].

[reserved].

[reserved].

Notwithstanding anything to the contrary herein, immediately upon any acceleration of any Obligations pursuant to Section 10.02, (whether before, during or after the commencement of any proceeding under the Bankruptcy Code involving the Borrower or any other Loan Party), the Borrower shall immediately repay all the Loans, together with the applicable Prepayment Premium, unless only a portion of the Loans is so accelerated (in which case the portion so accelerated shall be so repaid together with the applicable Prepayment Premium). The parties hereto acknowledge and agree that the Prepayment Premium referred to in this Section 4.02(a)(vii) (i) is additional consideration for providing the Loans, (ii) constitutes reasonable liquidated damages to compensate the Lenders for (and is a proportionate quantification of) the actual loss of the anticipated stream of interest payments upon an early prepayment of the Loans (such damages being otherwise impossible to ascertain or even estimate for various reasons, including, without limitation, because such damages would depend on, among other things, (x) when the Loans might otherwise be repaid and (y) future changes in interest rates which are not readily ascertainable on the Closing Date), and (iii) is not a penalty to punish the Borrower for its early prepayment of the Loans or for the occurrence of any Event of Default.

Concurrently with any Change of Control, the Borrower shall repay all of the Loans, together with the applicable Prepayment Premium, if any, and all other outstanding Obligations.

Within five (5) Business Days after the date that the annual consolidated financial statements of the Borrower and its Subsidiaries are required to be delivered pursuant to Section 8.01(c) after the end of each fiscal year ending after the Closing Date, beginning with the fiscal year ending December 31, 2021, the Borrower will prepay the Loans, to be applied as set forth in Section 4.02(b), in an amount equal to (x) the Prepayment Percentage of Excess Cash Flow, if any, for such fiscal year *minus* (y) other than to the extent made from Net Debt Proceeds from any long-term Indebtedness, the principal amount of Loans voluntarily prepaid in accordance with Section 4.01 during such fiscal year.

Application of Payments. Voluntary prepayments shall be applied as set forth in Section 4.01(b) and, except as set forth in Section 4.02(c), each payment and prepayment of Loans required by Section 2.03(a) or Section 4.02(a), and any other amount that the Administrative Agent receives from any Person as a result of a provision in any Loan Document requiring that such amount be paid to the Administrative Agent, one hundred percent (100%) of such amount shall be applied *pro rata* to the Loans (and *pro rata* among and within each Class of Loans) based on the outstanding principal amounts thereof until the Loans are paid in full, and finally to any other outstanding Obligations until paid in full; provided, that the Borrower shall pay all amounts, if any, required to be paid pursuant to Section 2.07 with respect to each prepayment of Loans made on any date other than the last day of the applicable Interest Period. Each such prepayment shall be accompanied by all accrued interest on the Loans so prepaid, through the date of such prepayment, and, to the extent applicable (and whether before, during or after acceleration of the Loans and/or the occurrence of any Event of Default and/or the commencement of any proceeding under the Bankruptcy Code involving the Borrower or any other Loan Party), the Prepayment Premium.

Application of Collateral Proceeds. Notwithstanding anything to the contrary in Section 4.01 or this Section 4.02, (x) all proceeds of Collateral received by the Administrative Agent, a Lender or any other Person pursuant to the exercise of rights or remedies against the Collateral, (y) all payments received by Administrative Agent or any Lender upon and after the acceleration of any of the Obligations and (z) all payments received by Administrative Agent or any Lender following written notice to the Borrower and Administrative Agent by the Required Lenders during the existence of an Event of Default to impose the waterfall set forth in this Section 4.02(c), shall be applied as follows:

first, to pay any and all costs, fees, and expenses of, and any indemnity payments then due to, the Agents under the Loan Documents, until paid in full;

second, ratably to pay any costs, fees, and expenses of, and any indemnity payments then due to, any of the Lenders under the Loan Documents, until paid in full;

third, ratably to the Lenders to pay interest due in respect of the outstanding Loans until paid in full;

fourth, ratably to the Lenders to pay the outstanding principal balance of the Loans on a *pro rata* basis until the Loans are paid in full;

fifth, ratably to the Lenders to pay any Prepayment Premium payable pursuant to this Loan Agreement, and any other applicable premiums in respect of the Loans;

sixth, to pay any other Secured Obligations, ratably to the Persons entitled thereto and any breakage, termination or other payments under Hedging Agreements constituting Secured Obligations and any interest accrued thereon, and any payments under Secured Cash Management Agreements constituting Secured Obligations; and

seventh, to the Borrower or such other Person entitled thereto under Applicable Law.

For the avoidance of doubt, notwithstanding any other provision of any Loan Document, no amount received directly or indirectly from any Loan Party that is not a Qualified ECP Guarantor shall be applied directly or indirectly by the Administrative Agent or otherwise to the payment of any Obligations arising under Secured Cash Management Agreements and Secured Hedging Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation from the applicable Cash Management Bank or Hedge Bank, as the case may be, as may be reasonably necessary to determine the amount of the Secured Obligations owed thereunder. Each Cash Management Bank or Hedge Bank not a party to this Loan Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article X hereof for itself and its Affiliates as if a "Lender" party hereto and be deemed to be (and agrees to be) subject to the provisions in Sections 12.14, 12.18 and 13.04 as a party hereto.

Payment of Obligations; Method and Place of Payment

The obligations of each Loan Party hereunder and under each other Loan Document are not subject to counterclaim, set-off, rights of rescission, or any other defense of any kind whatsoever (other than defense of payment). Subject to Section 4.04, and except as otherwise specifically provided herein, all payments under any Loan Document shall be made by the Borrower, without counterclaim, set-off, rights of rescission, or deduction of any kind, to the Administrative Agent for the ratable account of the Secured Parties entitled thereto, not later than 1:00 p.m. on the date when due and shall be made in immediately available funds in Dollars to the Administrative Agent. The Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest or Fees ratably to the Secured Parties entitled thereto.

For purposes of computing interest or fees, any payments under this Loan Agreement that are made later than 1:00 p.m. on any Business Day may in the Administrative Agent's discretion be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall continue to accrue during such extension at the applicable rate in effect immediately prior to such extension.

Pursuant to Section 4.03(a), the Borrower shall make each payment under any Loan Document by wire transfer to such U.S. account as the Administrative Agent may identify in a written notice to the Borrower from time to time.

Taxes

Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 4.04) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

Payment of Other Taxes. The Loan Parties 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 the payment of, any Other Taxes.

Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.04) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

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 any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.06(c) relating to the maintenance of a Participant Register and (iii) any Excluded 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 the Lender from any other source against any amount due to the Administrative Agent under this Section 4.04(d).

Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 4.04, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

Status of Lenders.

Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver

to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 4.04(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the relevant 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.

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

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

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

(w) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or, in the case of an entity, IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or, in the case of an entity, IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(x) executed copies of IRS Form W-8ECI;

(y) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (1) a certificate to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled

foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (2) executed copies of IRS Form W-8BEN or, in the case of an entity, IRS Form W-8BEN-E; or

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

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

if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount 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 Loan Agreement.

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

Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.04 (including by the payment of additional amounts pursuant to this Section 4.04), 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 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such

indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (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 paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (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 with respect to such Tax had never been paid. This paragraph 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.

Survival. Each party's obligations under this Section 4.04 shall survive the resignation or replacement of either or both of the Agents 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.

Right to Decline Payments

Borrower shall provide prior written notice of any prepayment under Section 4.02 to the Administrative Agent by 3:00 p.m. at least three (3) Business Days prior to such proposed prepayment date. Any Lender in its sole discretion may decline, in whole or in part, any payment in respect of a mandatory prepayment under Section 4.02(a) without prejudice to each Lender's rights hereunder to accept or decline any future mandatory prepayment on behalf of the Lenders. If a Lender chooses to decline, in whole or in part, payment in respect of a mandatory prepayment, (i) the Lender shall promptly notify the Administrative Agent in writing by 3:00 p.m. two (2) Business Days prior to the prepayment date of its election to do so (it being understood that any Lender which does not notify the Administrative Agent of its election to exercise such option in respect of any payment in respect of a mandatory prepayment shall be deemed as of such date not to exercise such option), and (ii) the amount of such declined payment shall be offered ratably to the non-declining Lenders, who shall provide written notice not later than by 3:00 p.m. one (1) Business Day prior to the prepayment date of its acceptance of any declined payment in respect of a mandatory prepayment (it being understood that any Lender who does not notify the Administrative Agent of its election to exercise such option shall be deemed as of such date not to exercise such option), and (iii) if such other Lenders decline the additional repayment amount offered pursuant to clause (ii) above, such declined amounts may be retained by the Loan Parties.

Computations of Interest and Fees

All interest and fees shall be computed on the basis of the actual number of days occurring during the period for which such interest or fee is payable over a year comprised of 360 days; provided, that for any Loan bearing interest with reference to the Prime Rate, a year shall be comprised of 365 or 366 days, as the case may be. Payments due on a day that is not a Business Day shall (except as otherwise required by) be made on the next succeeding Business Day and such extension of time shall be included in computing interest and fees in connection with that payment.

Debt

The Borrower agrees that the Initial Term Loans shall be funded on the Closing Date net of original issue discount in the amount of the "Upfront Fee" set forth in, and as defined under, the Fee Letter. For the avoidance of doubt, all calculation of interest and fees in respect of the Initial Term Loans shall be calculated on the basis of their full stated principal amount. The Borrower and the Lenders agree that: (i) the Loans are intended as debt for U.S. federal income tax purposes and will be treated as such by the parties; (ii) [reserved]; (iii) such debt instrument is not governed by the rules set out in Treasury Regulations Section 1.1275-4; and (iv) they will adhere to this Loan Agreement for U.S. federal income tax purposes and not take any action or file any tax return, report or declaration inconsistent herewith. The inclusion of this Section 4.07 is not an admission by any Lender that it is subject to United States taxation.

CONDITIONS PRECEDENT TO THE INITIAL TERM LOANS

(g) The obligation of the Initial Term Loan Lenders to fund the Initial Term Loans under this Loan Agreement is subject to the satisfaction (or waiver by the Administrative Agent) of the following conditions precedent on or before the Closing Date:

Loan Documents

. The Administrative Agent shall have received copies (which shall be originals or in electronic format; provided, that, in the case of electronic copies, upon the request (on or after the Closing Date) of the Administrative Agent or, in the case of any Note, any applicable Lender, the applicable Loan Parties shall deliver original copies (it being understood, for the avoidance of doubt, that delivery of such original copies shall not be a condition precedent to the funding of the Initial Term Loans)) of the following documents, duly executed and delivered by an Authorized Officer of each applicable Loan Party and each other relevant party thereto:

this Loan Agreement;

the Notes, in accordance with Section 2.09;

the Guaranty and Security Agreement, substantially in the form attached hereto as Exhibit C-1;

such Patent Security Agreements, Trademark Security Agreements and Copyright Security Agreements, each substantially in the form attached hereto as Exhibit C-2, C-3 and C-4, respectively, as are required to perfect, or convenient to the perfection of, the Liens granted to the Collateral Agent in the IP Rights registered or applied-for in the United States Patent and Trademark Office or the United States Copyright Office described on Schedule 7.14; and

the Fee Letter

Lien and Other Searches; Filings

The Collateral Agent shall have received the results of a search of the UCC filings (or equivalent filings), tax Liens, judgment Liens, bankruptcies and litigations made with respect to each Loan Party, together with copies of the financing statements and other filings (or similar documents) disclosed by such searches, and accompanied by evidence that the Liens indicated in all such financing statements and other filings (or similar document) either are Permitted Liens or have been released or will be released on the Closing Date concurrently with the funding of the Loans hereunder.

The Collateral Agent shall have received the results of searches of ownership of IP Rights registered or applied-for in the United States Patent and Trademark Office and the United States Copyright Office.

The Collateral Agent shall have received evidence in form and substance satisfactory to the Collateral Agent that appropriate UCC (or equivalent) financing statements have been provided for filing in such office or offices as may be necessary to perfect and evidence the Collateral Agent's Liens in and to the Collateral.

Stock Pledges

All Capital Stock of each of the Borrower's Subsidiaries shall have been pledged pursuant to the Guaranty and Security Agreement, and the Collateral Agent shall have received all certificates (if any) representing such Capital Stock accompanied by instruments of transfer and undated stock powers executed in blank.

Legal Opinions

The Administrative Agent shall have received on the Closing Date executed legal opinions of (i) Sidley Austin LLP, counsel to the Loan Parties, (ii) Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., as Florida counsel to the Loan Parties, and Alston & Bird LLP, as Georgia counsel to the Loan Parties, which legal opinions shall be addressed to the Administrative Agent, the Collateral Agent and the Lenders and shall be in form and substance reasonably satisfactory to the Administrative Agent.

Secretary's Certificates

The Administrative Agent shall have received a certificate for each Loan Party, dated the Closing Date, duly executed and delivered by such Loan Party's secretary or assistant secretary, managing member, general partner, or other appropriate person reasonably acceptable to the Administrative Agent, as applicable, certifying:

that attached thereto is a copy of such Person's Organization Documents as of the Closing Date, including all amendments, modifications and supplements thereto, further certified, in the case of certificate or articles of incorporation or organization or articles of association or other similar constituting document, as of a recent date by the Secretary of State of the state of organization of such Person;

that attached thereto are resolutions, that have not been amended, supplemented, rescinded or modified, of each such Person's board of directors (or other managing body, in the case of a Person that is not a corporation) then in full force and effect expressly and specifically authorizing, to the extent relevant, all aspects of the Loan Documents applicable to such Person and the execution, delivery and performance of each Loan Document, in each case to be executed by such Person; and

as to the incumbency and specimen signatures of its Authorized Officers and any other of its officers, managing member or general partner, as applicable, authorized to act with respect to each Loan Document to be executed by such Person, and a list of all officers and directors of the Loan Parties.

Other Documents and Certificates

The Administrative Agent shall have received copies of the following documents and certificates (which shall be originals or in electronic format), each of which shall

be dated the Closing Date and duly executed by an Authorized Officer of each applicable Loan Party, in form and substance reasonably satisfactory to the Administrative Agent:

a certificate of an Authorized Officer of the Borrower, certifying as to:

the satisfaction of the conditions set forth in Section 5.18; and

that both before and after giving effect to Transactions, and the making of the Initial Term Loans on the Closing Date, no Default or Event of Default has occurred;

a Perfection Certificate by, and in respect of, each Loan Party;

certificates of good standing with respect to each Loan Party, each dated as of a recent date prior to the Closing Date, such certificates to be issued by the appropriate officer or official body of the jurisdiction of organization of such Loan Party, each of which certificates shall indicate that such Loan Party is in good standing in the applicable jurisdiction; and

a calculation or other written statement describing in detail the proposed use of the proceeds of the Loans, including all transaction fees, costs and expenses incurred and estimated as of the Closing Date in connection with this Loan Agreement and the Transactions, whether or not actually paid in cash on the Closing Date.

Solvency

The Administrative Agent shall have received a Solvency Certificate in the form of Exhibit G duly executed by the chief financial officer of the Borrower confirming the Solvency of the Borrower and of each of the other Loan Parties and their Subsidiaries, taken as a whole, after giving effect to the Transactions.

Borrowing Notice

The Administrative Agent shall have received a timely Borrowing Notice in accordance with Section 2.02(a).

Refinancing

Prior to or substantially concurrently with the funding of Initial Term Loans hereunder, the Refinancing shall have been consummated and the Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, payoff letter and other lien release documentation for the Existing Credit Agreement which confirms the Refinancing.

Financial and Other Information

The Administrative Agent shall have received a certificate in form and substance satisfactory to it, dated the Closing Date and duly executed by the chief financial officer of the Borrower, attaching the following documents and reports (each in form and substance reasonably satisfactory to the Administrative Agent) and certifying that such documents and reports (other than any forecasts or Projections) are true and complete in all material respects as of the Closing Date and that all forecasts and Projections were prepared by the Loan Parties in good faith based upon reasonable assumptions at the time delivered (it being understood that forecasts and Projections are subject to uncertainties and contingencies, many of

which are beyond the Loan Parties' control, and no assurance can be given that any forecast or Projection will be realized and that actual results may differ and such differences may be material):

the Model; and

calculations in form and substance reasonably satisfactory to the Administrative Agent demonstrating to the Administrative Agent's reasonable satisfaction that (A) the Total Net Leverage Ratio for the twelve-month period ending on the last day of the most recently completed twelve-month period ended not more than forty-five (45) days prior to the Closing Date does not exceed 5.00:1.00 and (B) Liquidity as of the Closing Date is at least $10,000,000, in each case, on a pro forma basis after giving effect to the execution and delivery of this Loan Agreement, the incurrence of the Indebtedness hereunder, and the consummation of the other Transactions including the payment of all fees expenses related to the foregoing and calculated in a manner reasonably satisfactory to Administrative Agent.

Insurance

The Collateral Agent shall have received certificates of insurance naming the Agents, the Lenders and the other Secured Parties as additional insureds and naming the Collateral Agent on behalf of the Secured Parties as loss payee (or in the case of real property, lender's loss payee), in each case with regard to the insurance required by Section 8.03, in form and substance reasonably satisfactory to the Collateral Agent.

PIPE Transaction

The PIPE Transaction shall have been consummated in full, in accordance with the terms and conditions of the PIPE SPA, prior to or substantially concurrently with the funding of the Initial Term Loans and such consummation shall have occurred on or before July 7, 2020.

Fees and Expenses

The Administrative Agent and each Lender shall have received, for its own respective account, (a) all fees and expenses due and payable on the Closing Date to such Person under the Fee Letter and (b) the reasonable fees, costs and expenses due and payable to such Person pursuant to Sections 3.01 and 12.05 (including the reasonable and documented fees, disbursements and other charges of counsel) due as of the Closing Date (in each case, to the extent invoiced one (1) Business Day prior to the Closing Date).

Patriot Act Compliance and Reference Checks

(a) The Administrative Agent shall have received, at least two (2) Business Days prior to the Closing Date, all documentation and other information with respect to the Loan Parties required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act, that has been reasonably requested in writing by the Administrative Agent at least five (5) Business Days prior to the Closing Date and (b) to the extent any Loan Party qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least two (2) Business Days prior to the Closing Date, any Lender that has requested, in a written notice to the Company at least five (5) Business Days prior to the Closing Date, a Beneficial Ownership Certification in relation to such Loan Party, shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Loan Agreement, the condition set forth in this sub clause (ii) shall be deemed to be satisfied).

[Reserved].

Subsidiaries.

As of the Closing Date, the Loan Parties and each of their respective Subsidiaries shall have no Subsidiaries other than as set forth on Schedule 7.36.

No Default

Both before and after giving effect to Transactions and the making of the Initial Term Loans on the Closing Date, no Default or Event of Default shall have occurred and be continuing.

Representations and Warranties

The representations and warranties of the Loan Parties set forth in this Loan Document and each other Loan Document, shall be true and correct in all material respects on and as of the Closing Date (except to the extent that any such representation or warranty is expressly stated to have been made as of an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date); provided 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 on such respective dates.

No Injunctions

No injunction, writ, restraining order, or other order of any nature (other than an injunction, writ, restraining order, or other order resulting from the actions of a Lender for purposes of avoiding its Commitments hereunder, as determined by a final non-appealable judgment from a court of competent jurisdiction) restricting or prohibiting, directly or indirectly, the Transactions shall have been issued and remain in force against the Loan Parties, any Agent or any Lender.

CONDITIONS PRECEDENT TO THE DDTLS

(h) The obligation of the DDTL Lenders to fund any DDTL under this Loan Agreement after the Closing Date is subject to the satisfaction (or waiver by (x) each DDTL Lender with an unfunded DDTL Commitment and (y) the Required Lenders) of the following conditions precedent on or before date of each such Borrowing of DDTL:

[Reserved].

No Defaults

Subject to Section 1.12, both before and after giving effect to the making of such DDTL on the proposed Borrowing date, no Default or Event of Default shall have occurred and be continuing.

Solvency

The Administrative Agent shall have received a Solvency Certificate substantially in the form of Exhibit G duly executed by the chief financial officer of the Borrower confirming the Solvency of the Borrower and of each of the other Loan Parties and their Subsidiaries, taken as a whole, after giving effect to such Borrowing of DDTL and the application of the proceeds thereof.

Representations and Warranties

Subject to Section 1.12, the representations and warranties of the Loan Parties set forth in this Loan Document and each other Loan Document, shall be true and correct in all material respects on and as of the date of such Borrowing of DDTL (except to the extent that any such representation or warranty is expressly stated to have been made as of an earlier date, in which case, such representation or warranty shall be true and correct in all material respects as of such earlier date); provided 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 on such respective dates.

Total Net Leverage Ratio

Subject to Section 1.12, as of the last day of the most recently completed Test Period, the Total Net Leverage Ratio recomputed on a pro forma basis for the Borrowing of such DDTL shall not exceed 3.50:1.00.

Borrowing Notice

The Administrative Agent shall have received a Borrowing Notice for such Borrowing of DDTL in accordance with Section 2.02.

Maximum Number of DDTL Borrowings

Immediately prior to such Borrowing of DDTL, there shall not have been more than five (5) previous Borrowings of DDTLs.

No MAE

Subject to Section 1.12, no event, change or condition shall have occurred since December 31, 2019 that has had or could reasonably be expected to have a Material Adverse Effect (it being understood and agreed, for the avoidance of doubt, that this Section 6.08 shall not be satisfied if a Material Adverse Effect shall have resulted from any litigation, investigation or other matter described on Schedule 7.08).

(i) The delivery of a Borrowing Notice by the Borrower in respect of any DDTL and the acceptance by the Borrower of the proceeds of any DDTL shall each be deemed to constitute, as of the date thereof, a representation and warranty by the Borrower as to the matters specified in Sections 6.02, 6.04, 6.05, 6.07 and 6.08.

REPRESENTATIONS AND WARRANTIES

(j) To induce the Agents and the Lenders to enter into this Loan Agreement and the Lenders to make the Loans and Commitments hereunder, each of the Loan Parties, jointly and severally, represents and warrants to the Agents and the Lenders as follows:

Status

Each Loan Party (a)(i) is a duly organized or formed and validly existing corporation or other registered entity, (ii) in good standing under the laws of the jurisdiction of its organization and (iii) has the corporate or other organizational power and authority to own its property and assets and to transact its business as presently conducted and (b) is duly qualified and authorized to do business, and is in good standing, in all jurisdictions where it does business or owns assets, except in the case of clause (a)(iii) and (b) where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

Power and Authority; Execution and Delivery

Each Loan Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Loan Documents to which it is a party (including, in the case of the Borrower, such power and authority to borrow the Loans as contemplated herein, in the case of the Guarantors, to guaranty the Obligations as contemplated by the Guaranty and Security Agreement, and in the case of all Loan Parties, to grant the Liens contemplated by this Loan Agreement and the other Security Documents) and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Loan Documents to which it is a party. Each Loan Party has duly executed and delivered the Loan Documents to which it is a party. No Loan Party has executed or delivered any Loan Documents in the state of Florida or Tennessee.

Enforceability

This Loan Agreement and the other Loan Documents to which each Loan Party is a party constitutes the legal, valid and binding obligation of such Loan Party, enforceable against each such Loan Party in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally.

No Violation

The execution, delivery and performance by the Loan Parties of this Loan Agreement and the other Loan Documents to which it is a party, the compliance with the terms and provisions hereof and thereof, and the consummation of the Transactions and the other transactions contemplated hereby, do not and will not (a) conflict with, contravene or violate any provision of any Applicable Law, (b) violate any order or decree of, or require any authorization, consent, approval, exemption or other action by or notice to, any Governmental Authority, (c) conflict with, result in a breach of any of the terms, covenants, conditions or provisions of, constitute a default under, otherwise result in the termination of or a termination right under, (i) any material indenture, note, loan agreement, lease agreement, mortgage, deed of trust or other financing or security agreement or (ii) any Material Contract, (d) result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of any Loan Party (other than Liens created under the Loan Documents or Permitted Liens), or (e) violate any provision of the Organization Document or any material Permit of any Loan Party (in the case of clauses (a), (b) and (c), to the extent that such conflict, breach, contravention, payment or violation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect).

Approvals, Consents, etc

No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other Person, and no consent or approval under any

contract or instrument (other than (a) those that have been duly obtained or made and which are in full force and effect or, if not obtained or made, individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect, (b) the filing of UCC financing statements, (c) filings in the United States Patent and Trademark Office and the United States Copyright Office, (d) any Hart-Scott-Rodino filing, if any, and (e) the filings or other actions necessary to perfect Liens under the Loan Documents) is required for the consummation of the Transactions or the due execution, delivery or performance by any Loan Party of any Loan Document to which it is a party, or for the due execution, delivery or performance of the Loan Documents, in each case by any of the Loan Parties party thereto. There is no judgment, order, injunction or other restraint issued or filed with respect to the transactions contemplated by the Loan Documents, the consummation of the Transactions, the making of any Loan or the performance by any Loan Party of its Obligations under the Loan Documents.

Use of Proceeds; Regulations T, U and X

The Borrower will use the proceeds of the Loans solely for the purposes set forth in, as permitted by, and in accordance with Section 8.12 and Section 9.18. No Loan Party is engaged in the business of extending credit for the purpose of purchasing or carrying "margin stock" or "margin securities" within the meanings of Regulations T, U or X, and no proceeds of any Loan will be used to purchase or carry any margin stock or margin security or otherwise for a purpose which violates or would be inconsistent with Regulations T, U or Regulation X.

Investment Company Act; etc

No Loan Party is, or after giving effect to the Transactions and the other transactions contemplated under the Loan Documents will be, an "investment company" within the meaning of the Investment Company Act of 1940.

Litigation, Labor Controversies, etc

There is no pending or, to the knowledge of any Loan Party, threatened in writing, litigation, action, proceeding or labor controversy (including without limitation, strikes, lockouts or slowdowns) against or involving any of the Loan Parties or any of their respective Subsidiaries (i) which purports to affect the legality, validity or enforceability of any Loan Document or any of the Transactions, (ii) which seeks specific performance or injunctive relief, or (iii), except as disclosed on Schedule 7.08, which would reasonably be expected to have a Material Adverse Effect. There are no collective bargaining or similar agreements entered into by, between or applicable to any Loan Party or any of its Subsidiaries and any union, labor organization or other bargaining agent in respect of the employees of any Loan Party or any of its Subsidiaries. Schedule 7.08 sets forth the insurance policies of the Borrower and its Subsidiaries applicable to the matters described in this Section 7.08.

Capitalization; Subsidiaries.

The "Capitalization and Subsidiaries Schedule" attached hereto as Schedule 7.09 sets forth all issued and outstanding Capital Stock of each Loan Party (other than the Borrower), including the number of authorized, issued and outstanding shares or other units of Capital Stock of each Loan Party (other than the Borrower) and the holders of such Capital Stock, all on and as of the Closing Date. Each outstanding share or unit of Capital Stock of each Loan Party (other than the Borrower) have been duly authorized, validly issued, are fully paid and non-assessable and have not been issued in violation of any preemptive or similar rights created by applicable Law, any Loan Party's (other than the Borrower) Organization Documents or by any agreement to which such Loan Party is a party or by which it is bound, and have been

issued in compliance with applicable federal and state securities or "blue sky" Laws. All issued and outstanding Capital Stock of each Loan Party (other than the Borrower) is free and clear of all Liens (except for the benefit of the Secured Parties and Permitted Liens). Except as set forth on Schedule 7.09, no Loan Party (other than the Borrower) has outstanding any Capital Stock convertible or exchangeable for any shares of its Capital Stock or any rights or options to subscribe for or to purchase its Capital Stock convertible into or exchangeable for its Capital Stock. Except as set forth on Schedule 7.09, no Loan Party is subject to any obligation (contingent or otherwise) to repurchase or acquire or retire any of its Capital Stock, other than stock repurchases otherwise permitted hereunder and other than any such obligations set forth in the Certificate of Amendment filed by the Borrower in connection with the PIPE Transactions. None of the Loan Parties has violated any applicable federal or state securities Laws in connection with the offer, sale or issuance of any of its Capital Stock.

As of the Closing Date, none of the Loan Parties has any Subsidiaries other than the Subsidiaries listed on Schedule 7.09. Schedule 7.09 describes the direct and indirect ownership interest of each of the Loan Parties in each Subsidiary as of the Closing Date.

Accuracy of Information.

All written factual information and data furnished by any Loan Party, any of their respective Affiliates or any of their respective representatives to any Agent or any Lender prior to the Closing Date for purposes of or in connection with this Loan Agreement or any of the Transactions (other than (i) the Inaccurate Information and other information or data derived therefrom and (ii) financial estimates, forecast, models and Projections, other forward looking information and underlying assumptions relating to any of the foregoing and information of an industry specific on general economic nature), taken as a whole, is, and all such written factual information and data hereafter furnished in writing by any Loan Party, any of their respective Affiliates or any of their respective representatives to any Agent or any Lender will (taken as a whole) be, true, correct and complete in all material respects on the date as of which such information or data is furnished, and none of such factual information and data at the time furnished by any Loan Party, any of their respective Affiliates or any of their respective representatives to any Agent or any Lender prior to the Closing Date for purposes of or in connection with this Loan Agreement or any of the Transactions contains (taken as a whole) any untrue statement of a material fact or omits to state any material fact necessary to make such information and data, taken as a whole, not materially misleading, in each case, at the time such information and data was furnished in light of the circumstances under which such information or data was furnished; provided that, to the extent any such information or data was based upon or constitutes a forecast or Projections (or other forward-looking information), the Loan Parties represent only that such forecast or Projections was prepared by the Loan Parties in good faith based upon assumptions believed to be reasonable by the Loan Parties at the time furnished, it being understood that forecasts and Projections (or other forward-looking information) are subject to uncertainties and contingencies, many of which are beyond the Loan Parties' control, and no assurance can be given that any forecast or Projections (or other forward-looking information) will be realized and that actual results may differ and such differences may be material.

The Budget, Model and other pro forma financial information provided to the Administrative Agent on or prior to the Closing Date were prepared in good faith based upon assumptions believed to be reasonable by the Loan Parties at the time made, it being recognized by the Administrative Agent and the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such Projections may differ from the projected results and such differences may be material.

The financial statements most recently provided pursuant to Section 8.01(b) or (c), as applicable, present fairly, in all material respects, the financial position and results of operations and cash flows of the Loan Parties and their Subsidiaries on a consolidated basis as of such dates and for such periods in accordance with GAAP, subject, in the case of financial statements provided pursuant to Section 8.01(c), to the absence of footnotes and normal year-end adjustments.

Beneficial Ownership Certification

As of the Closing Date, to the best knowledge of each Borrower, the information included in each Beneficial Ownership Certification provided on or prior to the Closing Date to any Lender in connection with this Loan Agreement is true and correct in all respects.

Tax Returns and Payments

Each Loan Party has filed all applicable federal, state and local income Tax returns, and all other material Tax returns, domestic and foreign, required to be filed by them, and has paid all Taxes and assessments payable by them that have become due (whether or not reflected on a Tax return) other than those not yet delinquent or contested in good faith by appropriate proceedings in accordance with Section 9.02(i) and with respect to which the applicable Loan Party has maintained adequate reserves, which reserves shall be in conformity with GAAP, consistently applied. Each Loan Party and its Subsidiaries has paid, or has provided adequate reserves for the payment of, all applicable federal, state, local and foreign income Taxes applicable for all prior fiscal years and for the current fiscal year, which reserves shall be in conformity with GAAP, consistently applied. No Lien in respect of Taxes has been filed, and, except as set forth on Schedule 7.12, no claim is being asserted, with respect to any such Tax, fee, or other charge in any case in excess of $100,000.

Compliance with ERISA

Each Employee Benefit Plan (and each related trust, insurance contract or fund), and with respect to each Employee Benefit Plan, each of the Loan Parties, is in compliance with its terms and with ERISA, the Code and all Applicable Laws, except for instances of noncompliance which, individually or in the aggregate, have not or could not reasonably be expected to result in a Material Adverse Effect. No ERISA Event has occurred or is reasonably expected to occur, which, individually or in the aggregate, has resulted or could reasonably be expected to result in a Material Adverse Effect. Each Employee Benefit Plan (and each related trust, if any) that is intended to qualify under Section 401(a) of the Code has received a favorable determination, advisory or opinion letter from the IRS, including for all required amendments, regarding its qualification thereunder that considers the law changes incorporated in the Employee Benefit Plan sponsor's most recently expired remedial amendment cycle determined under the provisions of Rev. Proc. 2007-44 (or any successor thereto). No action, suit, proceeding, hearing, audit or investigation with respect to the administration, operation or the investment of assets of any Employee Benefit Plan (other than routine claims for benefits) is pending, or to the knowledge of any Loan Party, expected or threatened, and anticipated to result in a Material Adverse Effect. No Plan has an Unfunded Current Liability that has resulted or could reasonably be expected to result in a Material Adverse Effect. No employee welfare benefit plan within the meaning of §3(1) or §3(2)(B) of ERISA of any Loan Party or any of their respective Subsidiaries provides benefit coverage subsequent to termination of employment except as required by Title I, Part 6 of ERISA or applicable state insurance laws or except which would not result in unfunded benefit obligations that could reasonably be expected to have a Material Adverse Effect. No Withdrawal Liability has been, or is reasonably

expected to be, incurred for any Multiemployer Plan by any Loan Party or any of their respective Subsidiaries or ERISA Affiliates.

Intellectual Property; Licenses, etc

Each Loan Party and each Subsidiary of each Loan Party owns, licenses or otherwise possesses the right to use, all of the IP Rights material to such Loan Party's business (including all Key IP) as currently conducted.

The conduct and operations of the businesses of each Loan Party and each of its Subsidiaries as currently conducted does not, to the knowledge of any Loan Party, infringe, misappropriate, dilute, or otherwise violate any IP Rights owned by any other Person.

Except as set forth on Schedule 7.14(a) or Schedule 7.08, there is no material claim or litigation pending or, to the knowledge of any Loan Party, threatened in writing against any Loan Party or any of its Subsidiaries, (i) challenging any right, title or interest of any Loan Party or any of its Subsidiaries in any IP Rights of such Loan Party or Subsidiary, (ii) contesting the use of any IP Rights owned by such Loan Party or Subsidiary, (iii) contesting the validity or enforceability of such IP Rights, or (iv) alleging infringement, misappropriation, dilution, or other violation by a Loan Party or any of its Subsidiaries of any IP Rights owned by any other Person.

Schedule 7.14(d) sets forth a complete and accurate list of (A) all IP Rights registered or pending registration with the United States Patent and Trademark Office, the United States Copyright Office or any foreign equivalent of either thereof and owned by each Loan Party and each of its Subsidiaries as of the Closing Date and (B) all material license agreements or similar arrangements pursuant to which any Loan Party or any of its Subsidiaries (1) receives rights to IP Rights of another Person (excluding any "shrink wrap" licenses and third-party software licenses generally available to the public at a cost of less than $50,000) or (2) grants rights to IP Rights to another Person. As of the Closing Date, none of the material IP Rights (it being understood and agreed that the Key IP is material) owned by any Loan Party or any of its Subsidiaries is subject to any material licensing agreement or similar arrangement except as set forth on Schedule 7.14(d).

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, for the past two (2) years, each Loan Party and, to such Loan Party's knowledge, any Person acting for or on such Loan Party's behalf have complied with (i) all applicable Laws relating to information that identifies, could be used to identify or is otherwise associated with an individual person or device ("Personal Information"). To the knowledge of each Loan Party, there have been no material breaches, security incidents, misuse of or unauthorized access to or disclosure of any Personal Information in the possession or control of such Loan Party or collected, used or processed by such Loan Party.

Ownership of Properties; Title; Real Property; Leases

No Loan Party owns any interest in Real Property on the Closing Date. Schedule 7.15 lists all of the material Real Property leased by any of the Loan Parties or their respective Subsidiaries as of the Closing Date and each other location leased from or otherwise owned by a third party at which a Loan Party stores any material Collateral as of the Closing Date, indicating the identity of the lessor and the location of the material Real Property or material Collateral. Each Loan Party (x) in the case of material owned personal property, owns good and valid title to such personal property, and (y) in the case of material leased Real Property or personal property, has valid and enforceable (except as may be limited by bankruptcy, insolvency, moratorium, fraudulent conveyance or other laws applicable to

creditors' rights generally and by generally applicable equitable principles) leasehold interests in such leased property, in each case, free and clear of all Liens except for Permitted Liens.

Environmental Matters

Except as would not be expected, individually or in the aggregate, to have a Material Adverse Effect:

the Loan Parties, each of their respective Subsidiaries, and each of their respective businesses, operations and Real Property (i) are in compliance with all Environmental Laws in all jurisdictions in which the Loan Parties or such Subsidiary, as the case may be, are currently doing business, and (ii) have obtained and are in compliance with all permits required under Environmental Laws. None of the Loan Parties or any of their respective Subsidiaries has become subject to any pending or, to the knowledge of such Loan Party, threatened in writing, Environmental Claim;

none of the Loan Parties or any of their respective Subsidiaries or, to the knowledge of any Loan Party, any other Person, has used, managed, handled, generated, treated, stored, transported, Released or disposed of Hazardous Materials in, on, at, under, to or from any currently or formerly owned or leased Real Property or facility relating to its business in a manner that requires or is reasonably expected to require corrective, investigative, monitoring, remedial or cleanup actions under any Environmental Law;

to the knowledge of the Loan Parties, there are no actions, activities, circumstances, facts, conditions, events or incidents, including the presence of any Hazardous Materials, which would be reasonably be expected to form the basis of any Environmental Claim against any Loan Party or any of their respective Subsidiaries; and

the Loan Parties have delivered or otherwise made available for inspection to the Administrative Agent copies and results of all reports, data, investigations, audits, assessments (including Phase I environmental site assessments and Phase II environmental site assessments), studies in the custody or possession of the Loan Parties or any of their Subsidiaries pertaining to: (i) any Environmental Claims involving any Loan Party or any of their Subsidiaries; (ii) any Hazardous Materials in, on, beneath or adjacent to any property currently or formerly owned, operated or leased by any Loan Party or any of their Subsidiaries; or (iii) any Loan Party's or any of their Subsidiaries' compliance with applicable Environmental Laws.

Solvency

On the Closing Date after giving effect to the Transactions and the other transactions related thereto, the Loan Parties on a consolidated basis are, Solvent.

[Reserved]

Security Documents; Perfection

Subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium, capital impairment, recognition of judgments, recognition of choice of law, enforcement of judgments or other similar laws or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, (ii) the Perfection Requirements and (iii) the provisions of this Loan Agreement and the other relevant Loan Documents, the Guaranty and Security Agreement is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first-priority security interest (subject only to Permitted Liens which, pursuant to the

terms of this Loan Agreement, are permitted to have priority over Collateral Agent's Liens thereon) in the Collateral described therein and proceeds thereof. The recordation of (x) the grant of security interest in Patents and (y) the grant of security interest in Trademarks in the respective form attached to the Security Agreement, in each case in the United States Patent and Trademark Office, together with filings on Form UCC-1, made pursuant to the applicable intellectual property security agreements in the form attached to the Guaranty and Security Agreement as Annex II thereto, will create, as may be perfected by such filings and recordation, a first-priority perfected security interest in the Trademarks and Patents covered by such applicable intellectual property security agreement, and the recordation of the grant of security interest in Copyrights, made pursuant to the applicable intellectual property security agreements in the form attached to the Guaranty and Security Agreement as Annex II thereto, with the United States Copyright Office, together with filings on Form UCC-1, will create, as may be perfected by such filings and recordation, a first-priority perfected security interest in the Copyrights covered by such intellectual property security agreement.

In the case of the Pledged Stock described in the Guaranty and Security Agreement, when stock certificates representing such Pledged Stock are delivered to the Collateral Agent; in the case of deposit accounts and securities accounts, when Account Control Agreements are executed and delivered by the Loan Parties owning such accounts, the Collateral Agent and the applicable depository bank or securities intermediary; and in the case of the other Collateral described in the Guaranty and Security Agreement, when financing statements and other filings specified on Schedule 7.19 in appropriate form are filed in the offices specified on Schedule 7.19, the Lien granted under the Guaranty and Security Agreement shall constitute a fully perfected (to the extent perfection is required under the Loan Documents) Lien on, and first-priority security interest (subject only to Permitted Liens which, pursuant to the terms of this Loan Agreement, are permitted to have priority over Collateral Agent's Liens thereon) in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof (to the extent such proceeds can be perfected by a filing), as security for the Obligations.

Compliance with Laws and Permits; Authorizations

Except as set forth on Schedule 7.08 or Schedule 7.35, each Loan Party and each of its Subsidiaries (a) is in compliance with all Applicable Laws and Permits and (b) has all requisite governmental licenses, Permits, authorizations, consents and approvals to operate its business as currently conducted, except in the case of clauses (a) and (b), such instances in which (x) such requirement of Applicable Laws, Permits, government licenses, authorizations or approvals are being contested in good faith by appropriate proceedings diligently conducted or (y) the failure to have or comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

[Reserved]

Contractual or Other Restrictions

Other than the Loan Documents, no Loan Party or any of its Subsidiaries is a party to any agreement or arrangement or subject to any Applicable Law that (a) limits its ability to pay dividends to, or otherwise make Investments in or other payments to, any Loan Party, (b) limits its ability to grant Liens in favor of the Collateral Agent or (c) otherwise limits its ability to perform the terms of the Loan Documents.

No Brokers

Except as set forth on Schedule 7.23, there is no broker's or finder's fee or commission will be payable with respect hereto or any of the transactions contemplated hereby.

Insurance

The properties of each Loan Party are insured with reputable insurance companies that the Loan Parties reasonably believe to be financially sound and that are not Affiliates of any Loan Party against loss and damage in such amounts, with such deductibles and covering such risks, as are customarily carried by Persons of comparable size and of established reputation engaged in the same or similar businesses and owning similar properties in the general locations where such Loan Party operates, in each case as described on Schedule 7.24. As of the Closing Date, all premiums with respect thereto that are due and payable have been duly paid and no Loan Party has received or is aware of any notice of any material violation or cancellation thereof and each Loan Party has complied in all material respects with the requirements of each such policy.

Evidence of Other Indebtedness

Schedule 7.25 is a complete and correct list of each credit agreement, loan agreement, promissory note, indenture, purchase agreement, guaranty, letter of credit or other arrangement providing for or otherwise relating to any Indebtedness or any extension of credit (or commitment for any extension of credit) to any Loan Party outstanding on the Closing Date which will remain outstanding after the Closing Date (other than this Loan Agreement and the other Loan Documents). The aggregate principal or face amount outstanding or that may become outstanding under each such arrangement as of the Closing Date is correctly described in Schedule 7.25.

Deposit Accounts, Securities Accounts and Commodity Accounts

Schedule 7.26 lists all of the deposit accounts, securities accounts and commodity accounts of each Loan Party as of the Closing Date, including, with respect to each depository bank, securities intermediary or commodity intermediary at which such accounts are maintained by such Loan Party, (a) the name and location of such Person (b) the account numbers of the deposit accounts, securities accounts and commodity accounts maintained with such Person and (c) whether each such account constitutes an Excluded Deposit Account (and a description of the reasoning for such account qualifying as an Excluded Deposit Account).

Principal Business

As of the Closing Date and at all times thereafter each Loan Party is engaged solely in the Business.

Absence of any Undisclosed Liabilities

Other than the Obligations and other liabilities permitted by the terms of this Loan Agreement, there are no material liabilities of any Loan Party of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition, situation or set of circumstances which could reasonably be expected to result in any such liabilities, other than those liabilities disclosed in writing to the Administrative Agent prior to the Closing Date and identified as a disclosure under this Section 7.28.

Anti-Terrorism Laws; the Patriot Act

To the knowledge of each Loan Party, each Loan Party is in compliance with, and no Loan Party is in violation of, any Applicable Law concerning or relating to terrorism or money laundering ("Anti-Terrorism Laws"), including the Patriot Act, the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§1 *et seq.*), as amended

(the "Trading with the Enemy Act"), the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended), and Executive Order No. 13224 on Terrorism Financing, effective September 24, 2001 (the "Executive Order"). No Loan Party or other agents acting or benefiting in any capacity in connection with the Loans is (i) a Person that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order, (ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order, (iii) a Person with whom any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (iv) a Person who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order, (v) an "enemy" or an "ally of the enemy" within the meaning of Section 2 of the Trading with the Enemy Act, or (vi) a Person that is named as a "specially designated national and blocked person" on the most current list published by the United States Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list. No Loan Party or other agents acting or benefiting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in the preceding sentence, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in any property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Anti-Terrorism Laws.

Economic Sanctions/OFAC

No Loan Party or any director, officer, or employee of any Loan Party, and to the knowledge of any Loan Party no Affiliate, agent, representative, or other Person acting for or on behalf of any Loan Party, is, or is owned 50% or more by one or more Persons that are, (i) the subject of any economic or financial sanctions or trade embargoes imposed, administered or enforced by any relevant Governmental Authority ("Sanctions"), including without limitation those administered by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC Sanctions"), the United Nations Security Council, the European Union, or Her Majesty's Treasury of the United Kingdom, or (ii) located, organized or conducting business in a country, region or territory that is the subject of broad Sanctions (at the time of this Loan Agreement, Crimea, Cuba, Iran, North Korea and Syria, each, a "Sanctioned Country") (any such Person referred to in clause (i) or (ii), a "Sanctioned Person").

Foreign Corrupt Practices Act

No Loan Party or any director, officer, or employee of any Loan Party, and to the knowledge of any Loan Party no Affiliate, agent, representative, or other Person acting for or on behalf of any Loan Party, has taken any action in violation of Applicable Law in furtherance of an offer, payment, promise to pay or authorization or approval of the payment or giving of money, property, gifts or anything else of value, directly or indirectly, to any "government official" (including any officer or employee of a government or a government-owned, government-controlled or other quasi-governmental entity or of a public international organization, or any Person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office) to influence official action or secure an improper advantage, and each Loan Party has conducted its businesses in compliance with the Foreign Corrupt Practices Act (15 U.S.C. § 78dd-1 *et seq.*) and other applicable anti-corruption laws.

Material Contracts; Customer Contracts; No Hedging Contracts

As of the Closing Date, Schedule 7.32 sets forth all Material Contracts, and each such Material Contract is in full force and effect and no defaults or breaches currently exist thereunder.

As of the Closing Date, to the knowledge (in management's reasonable judgment after due inquiry) of the Loan Parties, there is no pending or threatened termination of or adverse amendment or modification to any Material Contract that could reasonably be expected to result in a material reduction of the Consolidated Adjusted EBITDA of the Loan Parties.

As of the Closing Date, there are no Hedging Agreements or similar agreements entered into by, between or applicable to any Loan Party or any of its Subsidiaries.

Affiliate Transactions

Except as set forth on Schedule 7.33, no Loan Party is a party to any contracts or agreements with any of its Affiliates on terms and conditions which are less favorable to such Loan Party than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

Collective Bargaining Agreements

Schedule 7.34 is a complete and correct list and description (including dates of termination) as of the Closing Date of all collective bargaining or similar agreements between or applicable to any Loan Party or any of its Subsidiaries and any union, labor organization or other bargaining agent in respect of the employees of any Loan Party or any of its Subsidiaries.

Health Care Regulatory Matters.

Except or otherwise disclosed on Schedule 7.08 or Schedule 7.35 as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party is, and for the past five (5) years has been in compliance with all Health Care Laws applicable to the Loan Party's business or by which any property, business product or other asset of the Loan Party is bound or affected.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or otherwise disclosed on Schedule 7.08 or Schedule 7.35, no Loan Party is a party to any corporate integrity agreements, monitoring agreements, consent decrees, settlement orders with governmental entities, or similar agreements with or imposed by any Governmental Authority.

No Loan Party, nor its current officers or employees, nor to the knowledge of any Loan Party , all agents acting on its behalf, has been convicted of any crime or, to any Loan Party's knowledge, engaged in any conduct, that could result in a material debarment or exclusion under 21 U.S.C. § 335a, 42 U.S.C. § 1320a-7, or any similar state or foreign law, rule or regulation that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. As of the date hereof, except as otherwise disclosed on Schedule 7.08 or Schedule 7.35, no claims, actions, proceedings or investigations that would reasonably be expected to result in such a material debarment or exclusion are, to the Loan Party's knowledge, pending or threatened against any Loan Party or its officers or employees, or any agents acting on its behalf.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or otherwise disclosed on Schedule 7.08 or Schedule 7.35: (i) each Loan Party possesses and is operating in compliance with Permits issued by, and have made all declarations and filings with, the appropriate Governmental Authorities reasonably necessary to conduct its business, including without limitation all those that may be required by FDA or any other Governmental Authority engaged in the regulation of pharmaceuticals, medical devices, biologics, cosmetics or biohazardous materials; (ii) all such Permits are valid and in full force and effect; (iii) all applications, notifications, submissions, information, claims, reports and statistics, and other data and conclusions derived therefrom, utilized as the basis for or submitted in connection with any and all requests for a Permit, when submitted to the Governmental Authority were true, complete and correct in all material respects as of the date of submission and any necessary or required updates, changes, corrections or modification to such applications, submissions, information and data have been submitted to the Governmental Authority; and (iv) there is no Governmental Authority action pending or, to any Loan Party's knowledge, threatened which could reasonably be expected to limit, revoke, suspend or materially modify any Permit.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or otherwise disclosed on Schedule 7.08 or Schedule 7.35, for the past five (5) years, no Loan Party has received from the FDA or any other Governmental Authority any inspection reports, notices of adverse findings, warning or untitled letters, or other correspondence concerning any drugs, biologics or medical devices manufactured or sold by or on behalf of a Loan Party ("Loan Party Products") in which any Governmental Authority alleges or asserts a failure to comply with applicable Health Care Laws, or that such products may not be safe, effective or approvable.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or as otherwise disclosed on Schedule 7.08 or Schedule 7.35, for the past five (5) years, no Loan Party has had any product or manufacturing site (whether owned by the Loan Party or that of a contract manufacturer for Loan Party Products) subject to a Governmental Authority (including FDA) shutdown or import or export prohibition.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or as otherwise disclosed on Schedule 7.08 or Schedule 7.35, for the past five (5) years, no Loan Party has had (i) any recalls, field notifications, field corrections, market withdrawals or replacements, warnings, "dear provider" letters, investigator notices, safety alerts or other notice of action relating to an alleged lack of safety, efficacy, or regulatory compliance of the Loan Party Products issued by the Loan Parties ("Safety Notices") or (ii) to the Loan Parties' knowledge, any material complaints with respect to the Loan Party Products that are currently unresolved. Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, to the Loan Parties' knowledge, there are no facts that would be reasonably likely to result in (A) a Safety Notice with respect to the Loan Party Products; or (B) a termination or suspension of marketing or testing of any of the Loan Party Products.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or as otherwise disclosed on Schedule 7.08 or Schedule 7.35, for the past five (5) years, no Loan Party, nor, to the knowledge of any Loan Party, any employee or agent of any Loan Party, has made an untrue statement of a material fact or fraudulent statement to any Governmental Authority, failed to disclose a material fact that must be disclosed to any Governmental Authority, or committed an act, made a statement or failed to make a statement that, at the time such statement, disclosure or failure to disclose occurred, could reasonably be expected to constitute a violation of any Health Care Law.

Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or as otherwise disclosed on Schedule 7.08 or Schedule 7.35, for the past five (5) years, no Loan Party and, to the knowledge of any Loan Party, no employee or agent of any Loan Party, directly or indirectly, has (i) offered or paid or solicited or received any remuneration, in cash or in kind, or made any financial arrangements, in violation of any Health Care Law; (ii) given or agreed to give any gift or gratuitous payment of any kind, nature or description (whether in money, property or services) in violation of any Health Care Law; (iii) made or agreed to make any contribution, payment or gift of funds or property to, or for the private use of, any governmental official, employee or agent where either the contribution, payment or gift or the purpose of such contribution, payment or gift is or was illegal under any Health Care Law having jurisdiction over such payment, contribution or gift; (iv) established or maintained any unrecorded fund or asset for any purpose or made any misleading, false or artificial entries on any of its books or records for any reason, in violation of any Health Care Law; or (v) made, or agreed to make any payment to any person with the intention or understanding that any part of such payment would be in violation of any Health Care Law.

AFFIRMATIVE COVENANTS

(k) The Loan Parties hereby covenant and agree with the Lenders and the Administrative Agent to each of the following so long as any Obligations hereunder (other than Unasserted Contingent Obligations) or any Commitments hereunder remain outstanding:

Financial Information, Reports, Certificates and Other Information

The Loan Parties shall furnish to the Administrative Agent, for distribution to each Lender, copies of the following financial statements, reports, notices and information:

Monthly Liquidity Reports. As soon as available and in any event within ten (10) days after the end of each fiscal month, a Liquidity Compliance Certificate executed by an Authorized Officer of the Borrower together with any supporting information requested by the Administrative Agent (acting reasonably) with respect to the calculation of Liquidity for such fiscal month.

Quarterly Financial Statements. As soon as available and in any event within forty-five (45) days after the end of each fiscal quarter of the Borrower, (i) unaudited (x) consolidated balance sheets of the Borrower and its Subsidiaries as of the end of such fiscal quarter, and (y) consolidated statements of income and cash flow of the Borrower and its Subsidiaries (and commencing with the fiscal quarter ending March 31, 2022, with Consolidated Total Revenue, Consolidated Total Net Sales Deductions and Consolidated Total Ineligible Product Revenue, clearly noted or otherwise delivered (it being understood, for the avoidance of doubt, that such other delivery shall constitute financial statements delivered under this Section 8.01(b) for purposes of Section 7.10(c)) for such fiscal quarter, in each case and for the period commencing at the end of the previous fiscal year of the Borrower and ending with the end of such fiscal quarter, including (in the case of each of clause (x) and clause (y) (if applicable)) in comparative form (both in Dollar and percentage terms) the figures for the corresponding fiscal quarter in, and year-to-date portion of, the immediately preceding fiscal year of the Borrower, (ii) a statement of Consolidated Adjusted EBITDA (x) for the year-to-date portion of such fiscal year of the Borrower ending concurrently with such fiscal quarter, including in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for the same year-to-date period in the immediately preceding fiscal year of the Borrower and (y) for the Test Period

ending concurrently with such fiscal quarter, including, in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for such Test Period against the then-current Budget, and for the Test Period immediately preceding such reported period and (iii) a management discussion and analysis (with reasonable detail and specificity) of the results of operations for the fiscal periods reported, including, in comparative form the figures for the corresponding fiscal quarter in, and year-to-date portion of, the immediately preceding fiscal year of the Borrower, and period commencing at the end of the previous fiscal year of the Borrower and ending with the end of such fiscal quarter.

Annual Financial Statements. As soon as available and in any event within three (3) days after the earlier of (x) the date the Borrower is required to file or (y) the date the Borrower has filed its Form 10-K under the Exchange Act (but in no event later than ninety (90) days after the end of each fiscal year of the Borrower), (a) copies of the consolidated balance sheets of the Borrower and its Subsidiaries for such fiscal year, and the related consolidated statements of income and cash flows of the Borrower and its Subsidiaries (and commencing with the fiscal year ending December 31, 2022, with Consolidated Total Revenue, Consolidated Total Net Sales Deductions and Consolidated Total Ineligible Product Revenue, clearly noted, or otherwise delivered and based upon the audited information delivered in accordance with this clause (c) (it being understood, for the avoidance of doubt, that such other delivery shall constitute financial statements delivered under this Section 8.01(c) for purposes of Section 7.10(c)) for such fiscal year, and, to the extent available, setting forth in comparative form (both in Dollar and percentage terms) the figures for the immediately preceding fiscal year and against the then-current Budget for such fiscal year, such consolidated statements audited and certified without "going concern" or other qualification, exception or assumption and without qualification or assumption as to the scope of such audit as conducted in accordance with GAAP (except for any such qualification pertaining to the maturity of the Loans occurring within twelve (12) months of the relevant audit), by an independent public accounting firm of nationally recognized standing reasonably acceptable to the Administrative Agent (with any nationally recognized accounting firm being acceptable), together with a management discussion and analysis (with reasonable detail and specificity) of the results of operations for the fiscal periods reported and (b) a statement of Consolidated Adjusted EBITDA for such fiscal year, including in comparative form (both in Dollar and percentage terms) Consolidated Adjusted EBITDA for such fiscal year against the then-current income statement set forth in the Budget and for the same year-to-date period in the immediately preceding fiscal year.

Compliance Certificates. Concurrently with the delivery of the financial information pursuant to clauses (b) and (c) above, a Compliance Certificate executed by an Authorized Officer of the Borrower (i) certifying that such financial information presents fairly in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in conformity with GAAP, consistently applied, in each case at the respective dates of such information and for the respective periods covered thereby, subject in the case of unaudited financial information, to changes resulting from normal year-end audit adjustments and to the absence of footnotes (provided that such certification shall not be required with respect to financial information delivered pursuant to clause (c) above), (ii) showing compliance with the covenants set forth in Section 9.13 if applicable, and stating that no Default or Event of Default has occurred and is continuing (or, if a Default or an Event of Default has occurred, specifying the details of such Default or Event of Default and the actions taken or to be taken with respect thereto), (iii) specifying any change in the identity of the Subsidiaries as at the end of such fiscal year or period, as the case may be, from the Subsidiaries listed on Schedule 7.09, or from the most recently delivered Compliance Certificate, as applicable, (iv) including (x) an updated Schedule 7.15 and Schedule 7.26 of this Loan Agreement (if applicable) and (y) a written supplement substantially in the form of Schedules 1 through 4, as applicable, to the Guaranty and Security Agreement with respect to any additional assets and property acquired by any Loan Party after the date hereof if required to update the perfection of Collateral Agents Lien

with respect to such assets, all in reasonable detail and (v) with respect to a Compliance Certificate delivered in connection with clause (c) above, (x) if available, detailing any changes to the locations listed on Schedule 5 to the Guaranty and Security Agreement in respect of any Inventory or Equipment (as defined in the Guaranty and Security Agreement) (other than (a) Inventory or Equipment in transit in the Ordinary Course of Business and (b) Inventory and Equipment with a fair market value of less than $5,000,000 (in the aggregate for all Loan Parties) which may be located at other locations within the United States) and books and records concerning the Collateral and (y) including, and certifying to, a calculation (in reasonable detail) of the amount of Loans required to be prepaid pursuant to Section 4.02(a)(ix) for such fiscal year, if any, and the Available Amount as of the end of such fiscal year.

[Reserved].

Budget. On or prior to sixty (60) days after the end of each calendar year, final forecasted financial projections for the Borrower and its Subsidiaries for the then upcoming fiscal year (on a month-by-month basis), a final projected consolidated balance sheet of the Borrower and its Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow, projected changes in financial position and projected income and a description of the underlying assumptions applicable thereto and, in each case, prepared by management of the Loan Parties in good faith based upon reasonable assumptions, consistent in scope with the financial statements provided pursuant to Section 8.01(c) and setting forth the principal assumptions on which such projections are based (each such projections and the projections delivered as of the Closing Date pursuant to Section 5.10(b), being referred to as a "Budget").

Defaults; Beneficial Ownership. As soon as possible and in any event within five (5) Business Days after an Authorized Officer of any Loan Party or any of their respective Subsidiaries obtains knowledge thereof, (i) written notice from an Authorized Officer of the Borrower of the occurrence of any event that constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof, and what action the applicable Loan Parties have taken and propose to take with respect thereto and (ii) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

Notices. Written notice (x) with respect to the creation or acquisition of any Subsidiary of the Borrower at least five (5) Business Days after such creation or acquisition and (y) promptly upon becoming aware of (and in no event later than five (5) Business Days after an Authorized Officer of any Loan Party becomes aware of) (in each case, or such longer period as may be reasonably agreed by the Administrative Agent) each the following, and copies of all notices and related documents and correspondence with respect to:

the filing or commencement of each (x) criminal litigation, investigation or proceeding affecting any Loan Party or any Subsidiary thereof and (y) non-criminal litigation, investigation or proceeding affecting any Loan Party or any Subsidiary thereof (A) in which injunctive or similar relief is sought, (B) which could reasonably be expected to have a Material Adverse Effect or (C) in which the relief sought is an injunction or other stay of the performance of this Loan Agreement or any other Loan Document;

each pending or, to the knowledge of an Authorized Officer of a Loan Party, threatened in writing labor dispute, strike, walkout, or union organizing activity with respect to any employees of a Loan Party that would reasonably be expected to have a Material Adverse Effect;

after the same are publicly available, all annual, regular, periodic and special reports, proxy statements and registration statements filed with the SEC;

the discharge, withdrawal or resignation by a Loan Party's independent accountants;

any fine, judgment, order, court approved settlement or other settlement (of any litigation) for the payment of money in excess of $5,000,000, affecting any Loan Party or any Subsidiary thereof;

[reserved];

all notices submitted or delivered to a Loan Party or any Subsidiary of a Loan Party by a regulatory agency when such notice could reasonably have a Material Adverse Effect; ~~and~~

any other development by or relating to a Loan Party or any Subsidiary of a Loan Party that results in, or could reasonably be expected to result in, a Material Adverse Effect; and

(1) Product(s), the sale of which constituted more than 15% of Consolidated Total Net Sales as of the most recent Calculation Date, becoming Ineligible Product(s).

Material Contracts. As soon as possible and in any event within five (5) Business Days after any Loan Party obtains knowledge of the occurrence of a breach or default or notice of termination by any party under, a statement of an Authorized Officer of the Borrower setting forth details of such breach or default or notice of termination and the actions taken or to be taken with respect thereto.

[Reserved].

[Reserved].

[Reserved].

Insurance Report. Upon written request by the Administrative Agent, a current report of a reputable insurance broker with respect to insurance policies maintained by the Loan Parties.

[Reserved].

Other Information. Promptly, such other information (financial or otherwise) as any Agent on its own behalf or on behalf of any Lender may reasonably request in writing from time to time, including, without limitation, (x) such further schedules, documents and/or information regarding the Collateral as any Agent may on its own behalf or on behalf of any Lender may reasonably require and (y) any investigation or filed litigation involving any Loan Parties or their Subsidiaries. Notwithstanding anything to the contrary in this Section 8.01(n), none of the Loan Parties shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that is subject to attorney-client privilege or constitutes attorney work product.

It is acknowledged and agreed that statements, reports, notices and other documents required to be delivered pursuant to Sections 8.01(b), 8.01(c) and 8.01(h)(iii) (to the

extent any such statements, reports, notices and other documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are (i) posted on the Loan Parties' behalf on an Internet or intranet website, if any, to which each Lender and the Agents have access (whether a commercial, third-party website or whether sponsored by any Agent); or (ii) available on the SEC's website on the Internet at www.sec.gov.

Books, Records and Inspections

The Loan Parties shall, and shall cause each of their respective Subsidiaries to, maintain proper books of record and account, in which entries that are complete, true and correct in all material respects shall be made of all material financial transactions and matters involving the assets and business of the Loan Parties or such Subsidiary, in each case, which shall be in conformity with GAAP, consistently applied. The Loan Parties shall, and shall cause each of their respective Subsidiaries to, permit the Administrative Agent and its representatives and independent contractors, upon reasonable advance notice to the Loan Parties, to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Loan Parties and at reasonable times during normal business hours; provided that unless an Event of Default has occurred and is continuing, the Administrative Agent shall not conduct and the Loan Parties shall not be required to reimburse the Administrative Agent for, more than one (1) such inspections in any calendar year. Any information obtained by the Administrative Agent pursuant to this Section 8.02 may be shared with the Collateral Agent or any Lender upon such Person's request. The Administrative Agent shall give the Loan Parties the opportunity to participate in any discussions with the Loan Parties' independent public accountants. Notwithstanding anything to the contrary in this Section 8.02, none of the Loan Parties will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that is subject to attorney-client or similar privilege or constitutes attorney work product.

Maintenance of Insurance

The Loan Parties shall, and shall cause each of their respective Subsidiaries to, maintain in full force and effect at all times (including by paying all applicable premiums), with insurance companies reputable and that the Loan Parties reasonably believe to be financially sound at the time the relevant coverage is placed or renewed, insurance in at least such amounts and against at least such risks (and with such risk retentions) as reasonably determined by the Loan Parties in the exercise of reasonable business judgment, and in any case insuring against casualty and general liability insurance. The Loan Parties shall furnish to the Collateral Agent for further delivery to the Lenders, upon written request from the Collateral Agent, information presented in reasonable detail as to all such insurance so carried, and in any case including, without limitation, (i) endorsements to (x) all "All Risk" policies (including, without limitation, business interruption policies to the extent maintained by any Loan Party from time to time) naming the Collateral Agent, on behalf of the Secured Parties, as loss payee, and (y) all general liability policies naming the Agents, the Lenders and the other Secured Parties as additional insureds, and (ii) legends providing that no cancellation, material reduction in amount or material change in insurance coverage thereof shall be effective until at least thirty (30) days (ten (10) days with respect to failing to pay premiums) after receipt by the Collateral Agent of written notice thereof.

Payment of Taxes and Liabilities

Each Loan Party shall pay and discharge, and shall cause each of its Subsidiaries to pay and discharge, all federal, state and local income and other material Taxes, assessments, governmental charges, levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which penalties attach thereto, all lawful claims respecting the foregoing that, if unpaid, could reasonably be expected to become a Lien upon any properties of the Loan Parties or any of their respective Subsidiaries and all other liabilities and obligations of such Loan Party and its Subsidiaries; provided, that no Loan Party or any of its Subsidiaries shall be required to pay any such Tax, assessment, charge, levy or claim that is being contested in good faith and by proper proceedings in accordance with Section 9.02(i) and as to which such Loan Party has maintained adequate reserves with respect thereto in conformity with GAAP consistently applied.

Maintenance of Existence; Compliance with Laws, etc.

Each Loan Party shall, and shall cause its Subsidiaries to, (a) except in a transaction permitted by Section 9.03, preserve and maintain in full force and effect its legal existence except, in the case of any Subsidiary that is not a Loan Party, where failure to do so would not reasonably be expected to result in a Material Adverse Effect, (b) preserve and maintain its good standing under the laws of its state or jurisdiction of incorporation, organization or formation; and preserve and maintain its good standing under the laws of each other state or jurisdiction where such Person is qualified, or is required to be so qualified, to do business as a foreign entity, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect, (c) comply in all material respects with all Applicable Laws, rules, regulations and orders material to the Business, (d) do or cause to be done all things reasonably necessary to preserve, renew and keep in full force and effect the rights, licenses, permits, privileges, franchises, and IP Rights unless the failure to preserve, renew and keep in full force and effect such rights, licenses, permits, privileges, franchises or IP Rights neither affects any Key IP nor could not reasonably be expected to have a Material Adverse Effect, and (e) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, in each case under this Section 8.05 except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Environmental Compliance

Each Loan Party shall, and shall cause its Subsidiaries to, use and operate all of its and their businesses, facilities and properties in compliance with all Environmental Laws, including (i) keeping all necessary permits, approvals, certificates, licenses and other authorizations relating to environmental matters in effect and remaining in material compliance therewith, (ii) using, handling, managing, generating, treating, storing, transporting and disposing of all Hazardous Materials in material compliance with all applicable Environmental Laws, and (iii) keeping its and their property free of any Lien imposed by any Environmental Law, except in each case where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

The Borrower shall promptly give notice to the Administrative Agent upon any Loan Party or Subsidiary thereof becoming aware of (i) any material violation by any Loan Party or any of its Subsidiaries of any Environmental Law, (ii) any Environmental Claim against any Loan Party under any Environmental Law, including without limitation a written request for information or a written notice of violation or potential environmental liability from any foreign, federal, state or local environmental agency or board or any other Governmental Authority or Person, or (iii) the discovery of a Release or threat of a Release in, at, on, under, to or from any of the Real Property of any Loan Party or any facility or assets therein in excess of reportable or allowable standards or levels under any Environmental Law, or under

circumstances, or in a manner or amount which could reasonably be expected to require responsive, corrective, investigative, remedial, monitoring, cleanup or other corrective action under any Environmental Law, which in each case could reasonably be expected to have a Material Adverse Effect.

In the event of a (i) material violation of any Environmental Law, or (ii) the Release of any Hazardous Material in, at, on, under, to or from any Real Property of any Loan Party in amounts which require reporting, corrective measures, investigative, remedial, monitoring, cleanup or other action under any Environmental Law, which in each case is reasonably likely to subject any Loan Party to material liability under any Environmental Law, each Loan Party and its respective Subsidiaries, upon discovery thereof, shall take all steps required by Environmental Laws to correct such violation or address such Release and shall keep the Administrative Agent informed on a regular basis of their actions and the results of such actions, including providing to the Administrative Agent copies of material submissions to any Governmental Authority and relating to such correction of such violation and the address of such release.

ERISA

As soon as possible and, in any event, within ten (10) Business Days after any Loan Party or any ERISA Affiliate knows or has reason to know of the occurrence or expected occurrence of any ERISA Event that is reasonably expected to result in material liability to any Loan Party or any ERISA Affiliate, the Borrower shall deliver to the Agents and each Lender a certificate of an Authorized Officer of the Borrower setting forth the full details as to such occurrence and the action, if any, that such Loan Party or such ERISA Affiliate has taken and is required or proposes to take, together with any notices (required, proposed or otherwise) given to or filed with or by such Loan Party, such ERISA Affiliate, the PBGC, a Plan participant (other than notices relating to an individual participant's benefits) or the Plan administrator with respect thereto; and

Promptly following any reasonable request therefor, copies of any documents described in Section 101(k) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan and any notices described in Section 101(l) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided, that if any Loan Party or any ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Plan, the applicable Loan Party or the ERISA Affiliate(s) shall promptly make a request for such documents or notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof.

Maintenance of Properties

Each Loan Party shall, and shall cause its Subsidiaries to, (i) maintain, preserve, protect and keep its Real Property, properties and assets in good repair, working order and condition (ordinary wear and tear and casualty and condemnation excepted, and subject to dispositions permitted pursuant to Section 9.04), (ii) make necessary repairs, renewals and replacements thereof, (iii) maintain and renew as necessary all material leases, licenses, permits and other clearances necessary to use and occupy such properties and assets, in each case so that the business carried on by such Person may be properly conducted in all material respects at all times consistent with the manner in which business is conducted as of the Closing Date or such changes thereto as reasonably determined by the Loan Parties in their good faith business judgment from time to time, and (iv) continue to conduct at all times its business consistent with the manner in which business is conducted as of the Closing Date or such changes thereto as reasonably determined by the Loan Parties in their good faith business judgment from time to

time, except in each case, to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

[Reserved]

Additional Collateral, Guarantors and Grantors

The Loan Parties shall, upon the formation (including by division), purchase or acquisition thereof, promptly (and in any event no later than fifteen (15) days (or such longer date as may be reasonably agreed by the Administrative Agent) after the formation, purchase or acquisition, as applicable, thereof cause any direct or indirect Subsidiary formed or otherwise purchased or acquired after the Closing Date (other than an Excluded Subsidiary) to (i) execute a supplement to the Guaranty and Security Agreement in the form of Annex I to the Guaranty and Security Agreement or otherwise in form and substance satisfactory to the Collateral Agent, (ii) execute a joinder to this Loan Agreement, whereby such Subsidiary becomes a Loan Party hereunder, (iii) obtain all consents and approvals required to be obtained by it in connection with the execution and delivery of the aforementioned joinder and the Security Documents and the performance of its obligations hereunder and thereunder and the granting by it of the Liens thereunder, and (iv) cause its assets to be subject to a first priority perfected Lien (subject only to Permitted Liens) in favor of the Collateral Agent for the benefit of the Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Agent to grant and perfect or record such first priority Lien. Not later than fifteen (15) days (or such longer date as may be reasonably agreed by the Administrative Agent) after the acquisition by any Loan Party of any asset that is required to be provided as Collateral pursuant to this Loan Agreement or any Security Document, which asset would not automatically be subject to the Collateral Agent's first priority perfected Lien pursuant to pre-existing Security Documents, the applicable Loan Party shall cause such asset to be subject to a first priority perfected Lien (subject only to Permitted Liens that, pursuant to the terms of this Loan Agreement, are permitted to have priority over the Collateral Agent's Liens thereon) in favor of the Collateral Agent for the benefit of the Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Agent to grant and perfect or record such first priority Lien.

Pledges of Additional Stock and Indebtedness

(l) The Loan Parties shall promptly grant (and in any event no later than fifteen (15) days (or such longer date as may be reasonably agreed by the Administrative Agent) after the formation, purchase or acquisition, as applicable, thereof) a perfected (established by "control" (as defined in, and for purposes of, the UCC)), first priority security interest pledge to the Collateral Agent for the benefit of the Secured Parties, over (i) all the Capital Stock of each Subsidiary formed or otherwise purchased or acquired after the Closing Date, (ii) all promissory notes evidencing Indebtedness of any Loan Party or Subsidiary of any Loan Party that is owing to any other Loan Party in excess of $100,000, and (iii) all other evidences of Indebtedness in excess of $500,000 received by the Loan Parties.

Use of Proceeds

(m) The proceeds of Loans shall be used only (x) for working capital and general corporate purposes, (including, without limitation, the funding of forecasted growth, compliance and Capital Expenditures initiatives), (y) to consummate the Refinancing and (z) to pay the transaction fees, costs and expenses incurred directly in connection with this Loan Agreement and the Transactions.

Mortgages; Landlord Agreements

If any Loan Party acquires a fee simple interest in Real Property with a fair market value in excess of $2,000,000 after the Closing Date, the Borrower shall promptly notify the Agents and the Lenders thereof in writing. With respect to all Loan Parties' fee simple interests in Real Property with a fair market value in excess of $2,000,000, the Loan Parties shall take, and cause the other Loan Parties to take, such actions as shall be reasonably necessary or reasonably requested by the Collateral Agent to grant and/or perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in Section 8.15, all at the sole cost and expense of the Borrower. Each Mortgage delivered to the Collateral Agent hereunder shall be accompanied by (i) a policy or policies (or unconditional binding commitment thereof) of title insurance issued by a nationally recognized title insurance company insuring the Lien of each Mortgage as a valid Lien (with the priority described therein) on the Mortgaged Property described therein, free of any other Liens except for Permitted Liens as expressly set forth in Section 9.02, together with such customary endorsements and reinsurance as the Collateral Agent may reasonably request, and (ii) if requested by the Collateral Agent, an opinion of local counsel to the applicable Loan Parties with respect to the Mortgage and the Liens granted thereunder, in form and substance reasonably satisfactory to the Collateral Agent.

The Loan Parties shall use commercially reasonable efforts to cause each location described the definition of "Landlord Agreement" to become subject to a Landlord Agreement within ninety (90) days from the Closing Date (or such later date as may be agreed by the Administrative Agent) with respect to any applicable leased property as of the Closing Date, or, with respect to any applicable leased property that becomes subject to clauses (i) or (ii) of the definition of "Landlord Agreement" on any date after the Closing Date.

Accounts; Control Agreements

The Loan Parties shall cause each deposit account, securities account and commodity account (other than any Excluded Deposit Account) to be subject to an Account Control Agreement, and shall cause all Collections to be deposited in a deposit account listed on Schedule 7.26 that is subject to an Account Control Agreement (other than Collections that are deposited in any Excluded Deposit Account); provided, however, that, (i) so long as no Event of Default has occurred and is continuing, the Loan Parties may open new deposit accounts, new securities accounts and new commodity accounts so long as, within twenty (20) days after opening each such account (or such later date as may be agreed by the Administrative Agent), (x) the Loan Parties shall have delivered to the Agents an amended Schedule 7.26 including such account and (y) the Loan Parties shall have delivered to the Collateral Agent an Account Control Agreement with respect to such account (other than any Excluded Deposit Account) (but, with respect to any such accounts opened after the Closing Date, shall not deposit or transfer funds into such account prior to the execution and delivery of such Account Control Agreement) and (ii) the Loan Parties shall have until the date that is sixty (60) days (or such later date as agreed by the Administrative Agent) following the Closing Date to comply with the provisions of this Section 8.14(a) with regard to (x) deposit accounts, securities accounts and commodity accounts in existence on the Closing Date (and listed on Schedule 7.26 on the Closing Date) and (y) the requirement to deposit Collections in a deposit account that is subject to an Account Control Agreement (other than Collections that are deposited in any Excluded Deposit Account).

If, notwithstanding the provisions of this Section 8.14, after the occurrence and during the continuance of an Event of Default and following delivery of a Notice of Exclusive Control, a Loan Party receives or otherwise has dominion over or control of any Collections or other amounts, such Loan Party shall hold such Collections and amounts in trust for the Collateral Agent and shall not commingle such Collections with any other funds of any Loan Party or other Person or deposit such Collections in any account other than those accounts set forth on Schedule 7.26 (unless otherwise instructed by the Collateral Agent).

Further Assurances

The Loan Parties shall execute any and all further documents, financing statements, agreements and instruments, and shall take all such further actions, which may be required under any Applicable Law or which either Agent may reasonably request, in order to grant, preserve, protect, perfect and evidence the validity and priority of the security interests created or intended to be created by the Guaranty and Security Agreement or any other Security Document (including, without limitation, the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents, and assisting the Collateral Agent in completing all documentation relating to the Assignment of Claims Act, if applicable), all at the sole and reasonable cost and expense of the Borrower. Notwithstanding anything to the contrary in this Loan Agreement or in the Loan Documents, neither Borrower nor any other Loan Party shall have any obligation to perfect Liens in any patents, trademarks, copyrights or other IP Rights created, registered or applied-for in any jurisdiction other than the United States, other than to the extent that the Administrative Agent and the Borrower reasonably agree, that the burden or cost of perfecting such Lien in such jurisdiction is reasonable and does not outweigh the benefits to be obtained by the Lenders therefrom.

Notwithstanding anything herein to the contrary, it is understood and agreed that:

if the Collateral Agent determines in its sole discretion that the cost of creating or perfecting any Lien on any property is excessive in relation to the practical benefits afforded to the Lenders thereby, then such property may be excluded from the Collateral for all purposes of the Loan Documents;

no action shall be required to perfect any Lien with respect to (A) any vehicle or other asset subject to a certificate of title, and any retention of title, extended retention of title rights, or similar rights, or (B) letter of credit rights, in each case, except to the extent that a security interest therein is perfected by filing a UCC financing statement (which shall be the only required perfection action);

no Loan Party shall be required to perfect a security interest in any asset to the extent perfection of a security interest in such asset would be prohibited under any Applicable Law;

any joinder or supplement to any Security Document or any other Loan Document executed by any Subsidiary that is required to become a Loan Party pursuant to Section 8.15(a) above may, with the consent of the Administrative Agent (not to be unreasonably withheld, conditioned or delayed), include such schedules (or updates to schedules) as may be necessary to qualify any representation or warranty with respect to such Subsidiary set forth in any Loan Document to the extent necessary to ensure that such representation or warranty is true and correct in all material respects to the extent required thereby or by the terms of any other Loan Document; and

to the extent that the Administrative Agent and the Borrower reasonably agree that the burden or cost shall outweigh the benefits to be obtained by the Lenders therefrom, no actions in any non-U.S. jurisdiction or required by the laws of any non-U.S. jurisdiction shall be required in order to create any security interests in any assets or to perfect or make enforceable such security interests (including any IP Rights registered in any non-U.S. jurisdiction) (it being understood that there shall in no event be any security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction (other than Canada (including, without limitation, any province thereof)) or any requirement to make any filings in any foreign jurisdiction (other than Canada

(including, without limitation, any province thereof)) including with respect to foreign Intellectual Property (other than Canadian Intellectual Property)).

Lender Calls

Each Loan Party shall, and shall cause each of its Subsidiaries to, upon the request of the Administrative Agent, participate in a meeting of the Lenders, once per fiscal quarter, and when an Event of Default under Section 10.01(k) shall have occurred and be continuing, as frequently as may be required by the Administrative Agent, in each case to be held via teleconference, at a time selected by the Administrative Agent and reasonably acceptable to the Required Lenders and the Borrower. The purpose of this meeting shall be to present the Loan Parties' previous fiscal quarter's financial results and other matters to be mutually agreed.

Changes in Legal Form, etc.

(n) Each Loan Party shall provide at least 10 days' prior written notice to the Administrative Agent of the following:

a change of its legal form;

a change of its jurisdiction of organization;

a change of its name as it appears in official filings in its jurisdiction of organization; and

a change of the location of its registered office, chief executive office or sole place of business from that referred in the Perfection Certificate.

Contractual Obligations

(o) . Each Loan Party shall, and shall cause each of its Subsidiaries to, pay, discharge and perform as the same shall become due and payable or required to be performed, all their respective material obligations and liabilities, including:

(b) all lawful claims which, if unpaid, would by law become a Lien (other than a Permitted Lien) upon its property and assets unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the imposition or enforcement of any Lien and for which adequate reserves are being maintained by such Person, which reserves shall be in conformity with GAAP, consistently applied; and

(c) the performance of all material obligations under any Material Contracts.

Compliance with Health Care Laws

(1) Except, in each case, as would not, individually or in the aggregate be expected to have a Material Adverse Effect or otherwise disclosed on Schedule 7.08 or Schedule 7.35, the Loan Parties shall: (i) comply in all material respects with all Health Care Laws applicable to it, its assets, business or operations, respectively; (ii) maintain all Permits required to be maintained for the ownership of its respective assets and operation of its respective businesses; and (iii) timely file, or cause to be filed, all required health care filings in accordance with applicable Health Care Laws.

(2) Except as to matters otherwise disclosed on Schedule 7.08 or Schedule 7.35, or developments in scheduled matters subsequent to the date of this Loan Agreement, the Loan Parties shall notify the Administrative Agent within five (5) Business Days (or such longer date as may be reasonably agreed by the Administrative Agent) after the Loan Party has actual knowledge of any of the following facts, events or circumstances, and as permitted by applicable Laws, shall provide to the Administrative Agent as promptly as practicable following Administrative Agent's request therefor, such additional information as Administrative Agent shall reasonably request regarding such disclosure in each case which, if adversely determined, would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect:

(1) to the extent any of the following would be reasonably expected, individually or in the aggregate, to have a Material Adverse Effect, that a Loan Party has received written notice of any civil or criminal investigation or audit, or proceeding pending or to the knowledge of any Loan Party, threatened in writing, by any federal, state or local Governmental Authority relating to any actual or alleged material violation of any Health Care Laws or that alleges systemic, deliberate, widespread or material false or fraudulent claims submission by any Loan Party; and

(2) copies of any written recommendation from any Governmental Authority that a Loan Party should have any of its Permits suspended, revoked, or limited in any way, if such suspension, revocation or limitation would be reasonably likely, individually or in the aggregate, to have a Material Adverse Effect.

(3) the Loan Parties shall notify the Administrative Agent within five (5) Business Days (or such longer date as may be reasonably agreed by the Administrative Agent) after any Loan Party receives any written recommendation from any Governmental Authority that a Loan Party or any of its respective officers or employees should be suspended, debarred, or excluded in accordance with 21 U.S.C. § 335a, 42 U.S.C. § 1320a-7, or similar provision of Law.

Security Interests; Perfection, etc.

Each Loan Party shall, and shall cause each Subsidiary to, take all necessary actions to ensure that each of the Guaranty and Security Agreement, Mortgages (if any), Patent Security Agreements, the Trademark Security Agreements and the Copyright Security Agreements is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable first priority (subject only to Permitted Liens which, pursuant to the terms of this Loan Agreement, are permitted to have priority over Collateral Agent's Liens thereon) perfected security interest in the Collateral described therein and proceeds thereof.

Foreign Corrupt Practices Act Policies. The Borrower shall promptly institute and maintain policies and procedures designed to promote and achieve compliance with the Foreign Corrupt Practices Act and other applicable anti-bribery or anti-corruption laws by the Borrower, its Subsidiaries, joint venture partners, and directors, officers, employees, and agents or other Persons acting on behalf of the Borrower.

Post-Closing Obligations

Within thirty (30) days after the Closing Date (or such later date as agreed by the Collateral Agent), the Loan Parties shall deliver to the Collateral Agent the Account Control Agreements for each deposit account and securities account of a Loan Party as of the Closing Date (other than Excluded Deposit Accounts).

Within thirty (30) days after the Closing Date (or such later date agreed by the Collateral Agent), the Loan Parties shall deliver to the Collateral Agent the endorsements (containing or accompanied by a copy of the policy or binder in respect thereof) required by Section 8.03.

NEGATIVE COVENANTS

(p) The Loan Parties hereby covenant and agree with the Lenders and the Administrative Agent to each of the following so long as any Obligations hereunder (other than Unasserted Contingent Obligations) or any Commitments hereunder remain outstanding:

Limitation on Indebtedness

. Each Loan Party will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or indirectly liable, contingently or otherwise with respect to any Indebtedness, except for:

Indebtedness in respect of the Obligations;

Indebtedness (other than revolving credit facilities or commitments therefore) of a Person, that becomes a Subsidiary of the Borrower pursuant to a Permitted Acquisition, assumed at the time of such Permitted Acquisition; provided, that (i) such Indebtedness was not incurred in connection with, or in anticipation or contemplation of, such Permitted Acquisition and (ii) the aggregate principal amount of all Indebtedness permitted by this Section 9.01(b) shall not at any time outstanding exceed $10,000,000;

Indebtedness existing as of the Closing Date which is identified with particularity (including amount) in Schedule 7.25 and which is not otherwise permitted by this Section 9.01;

Indebtedness in respect of performance, surety or appeal bonds provided in the Ordinary Course of Business, but excluding (in each case) Indebtedness incurred through the borrowing of money or Contingent Liabilities in respect thereof;

Indebtedness (i) evidencing the deferred purchase price of newly acquired property or incurred to finance the acquisition of equipment of such Loan Party and its Subsidiaries (pursuant to purchase money mortgages or otherwise, whether owed to the seller or a third party) used in the Ordinary Course of Business of such Loan Party and its Subsidiaries; provided, that such Indebtedness is incurred within one hundred twenty (120) days of the acquisition of such property, and (ii) consisting of Capitalized Lease Obligations, in an aggregate amount for clause (i) and (ii), not to exceed $5,000,000 at any time outstanding;

Guaranty Obligations of a Loan Party in respect of Indebtedness of a Loan Party otherwise permitted hereunder, and Guaranty Obligations of a Subsidiary of a Loan Party in respect of Indebtedness of a Loan Party or any Subsidiary of a Loan Party otherwise permitted hereunder;

Indebtedness in an aggregate amount not to exceed $2,500,000 at any time outstanding consisting of promissory notes issued by the Borrower or any Subsidiary to any stockholder of the Borrower or to future, present or former directors, officers, members of management, employees or consultants of the Borrower, the Borrower or any of its Subsidiaries or their respective estates, executors, administrators, heirs, family members, legatees,

distributees, spouses or former spouses, domestic partners or former domestic partners to finance the purchase or redemption of Capital Stock of the Borrower permitted by Section 9.06;

non-recourse Indebtedness incurred by the Borrower or any of its Subsidiaries to finance the payment of insurance premiums of such Person;

Indebtedness (i) owed to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrower or any of its Subsidiaries incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person and (ii) appeal or similar bonds, or bonds with respect to worker's compensation claims;

unsecured Indebtedness consisting of intercompany loans and advances made by or among any Loan Parties; provided that: (x) in the case of any Indebtedness of any Subsidiary that is not a Loan Party owing to any Loan Party, solely to the extent the related Investment shall be permitted under Section 9.05; (y) any Indebtedness of any Loan Party to any Subsidiary that is not a Loan Party shall be documented in the form of one or more notes (collectively, the "Intercompany Notes") to evidence all such intercompany Indebtedness owing at any time by such non-Loan Party to such other Loan Party, which Intercompany Notes shall be in form and substance satisfactory to the Administrative Agent and shall be pledged and delivered to the Collateral Agent for the benefit of the Secured Parties pursuant to the Guaranty and Security Agreement as additional collateral security for the Obligations; and (z) the obligations of each Subsidiary that is not a Loan Party under all Intercompany Notes shall be subordinated in right of payment to the Obligations hereunder in a manner satisfactory to the Administrative Agent;

non-recourse Indebtedness incurred in the Ordinary Course of Business by the Borrower or any of its Subsidiaries to finance the payment of insurance premiums of such Person, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance premiums;

Indebtedness owed in the Ordinary Course of Business to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Borrower or any of its Subsidiaries incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person;

to the extent constituting Indebtedness, contingent obligations arising under indemnity agreements to title insurance companies to cause such title insurers to issue title insurance policies in the Ordinary Course of Business with respect to the real property of the Borrower or any other Loan Party;

to the extent constituting Indebtedness, customary indemnification and purchase price adjustments or similar obligations (including earn-outs) incurred or assumed in connection with Investments and Dispositions otherwise permitted hereunder; provided, that any Indebtedness permitted pursuant to this clause (n) shall not consist of, or be evidenced by, promissory notes or other instruments or agreements evidencing debt for borrowed money;

to the extent constituting Indebtedness, unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under Applicable Law;

to the extent constituting Indebtedness, deferred compensation or similar arrangements payable to future, present or former directors, officers, employees, members of management or consultants of the Borrower and its Subsidiaries in an aggregate amount not to exceed $3,000,000 outstanding at any one time;

Indebtedness in respect of repurchase agreements constituting Cash Equivalents;

cash management obligations and Indebtedness incurred by the Borrower or any Subsidiary in respect of netting services, overdraft protections, commercial credit cards, stored value cards, purchasing cards and treasury management services, automated clearing-house arrangements, employee credit card programs, controlled disbursement, ACH transactions, return items, interstate deposit network services, dealer incentive, supplier finance or similar programs, Society for Worldwide Interbank Financial Telecommunication transfers, cash pooling and operational foreign exchange management and similar arrangements, in each case entered into in the Ordinary Course of Business in connection with cash management, including among the Borrower and its Subsidiaries, and deposit accounts;

unsecured Indebtedness in respect of obligations of the Borrower or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the Ordinary Course of Business and not in connection with the borrowing of money;

to the extent constituting Indebtedness, Guarantees in the Ordinary Course of Business of the obligations of suppliers, customers, franchisees and licensees of the Borrower and its Subsidiaries;

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

Indebtedness arising in connection with Hedging Agreements entered into in the Ordinary Course of Business (and not for speculative purposes) (a) to hedge or mitigate risks to which the Borrower or any Subsidiary has actual or potential exposure (other than those in respect of Capital Stock of the Borrower or any of its Subsidiaries), including to hedge or mitigate foreign currency and commodity price risks and (b) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability of the Borrower or any Subsidiary; and

other Indebtedness not to exceed $5,000,000 in the aggregate principal amount at any time outstanding; provided that any Liens securing such Indebtedness shall rank junior in priority to the Liens securing the Secured Obligations;

other Indebtedness not to exceed $10,000,000 in the aggregate at any time outstanding; provided that such Indebtedness (x) shall rank junior in priority to the Liens securing the Obligations pursuant to an intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent, (y) shall, at the time such Indebtedness is incurred, have a scheduled maturity date that is at least ninety-one (91) days following the Latest Maturity Date and (z) shall not require (and the applicable Loan Party or Subsidiary of such Loan Party shall not make) payments of principal thereon prior to a date that is, at the time such Indebtedness in incurred, at least ninety-one (91) days following the Latest Maturity Date; and

Indebtedness pursuant to the Existing Credit Agreement; provided that the Refinancing occurs with the proceeds of Loans and/or the PIPE Transactions on or prior to the Closing Date.

For the avoidance of doubt, Indebtedness incurred pursuant to the foregoing clause (w) or (x) shall not be utilized to increase the Incremental Cap.

Limitation on Liens

. Each Loan Party will not, and will not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of any such Person (including its Capital Stock), whether now owned or hereafter acquired, except for the following Liens (collectively, "Permitted Liens"):

Liens securing payment of the Secured Obligations;

(i) Liens securing pension obligations that arise in the Ordinary Course of Business and (ii) pledges and deposits made in the Ordinary Course of Business (A) in connection with workers' compensation, health, disability or other employee benefits, unemployment insurance and other social security laws or regulations (excluding Liens arising under ERISA), property, casualty or liability insurance or premiums related thereto or self-insurance obligations or (B) to secure letters of credit, bank guarantees or similar instruments posted to support payment of items set forth in the foregoing clause (i); provided that such letters of credit, bank guarantees or instruments are issued in compliance with Section 9.01;

Liens existing as of the Closing Date and listed on Schedule 9.02, securing Indebtedness permitted under Section 9.01(c); provided, that no such Lien shall encumber any additional property not encumbered as of the Closing Date;

Liens securing Indebtedness of the type permitted under Section 9.01(e); provided, that (i) such Lien is granted within one hundred twenty (120) days after such Indebtedness is incurred, and (ii) such Lien secures only the assets that are the subject of the Indebtedness referred to in Section 9.01(e) (other than the proceeds or products thereof and after-acquired property subjected to a Lien pursuant to the terms existing at the time of such acquisition);

Liens arising by operation of law in favor of carriers, warehousemen, mechanics, materialmen and landlords incurred in the Ordinary Course of Business for amounts not yet overdue or being diligently contested in good faith by appropriate proceedings and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with GAAP, consistently applied;

Liens incurred or deposits made in the Ordinary Course of Business in connection with worker's compensation, unemployment insurance or other forms of governmental insurance or benefits, or to secure performance of tenders, statutory obligations, bids, leases or other similar obligations (other than for borrowed money) entered into in the Ordinary Course of Business or to secure obligations on surety, appeal or performance bonds;

judgment Liens with respect to which execution has been stayed or the payment of which is covered in full by insurance maintained with responsible insurance companies, or which judgment Liens do not result in an Event of Default under Section 10.01(i);

recorded or unrecorded easements, rights-of-way, covenants, conditions, restrictions, licenses, reservations, zoning restrictions, and other charges, encumbrances, defects,

imperfections or irregularities in title of any kind and other similar encumbrances that do not interfere in any material respect with the value or current use of the property to which such Lien is attached, all Liens, encumbrances and other matters disclosed in any title policy with respect to Real Property issued as of the Closing Date, and any other title and survey exceptions reasonably approved by Administrative Agent;

Liens for Taxes, assessments or other governmental charges or levies not yet due and payable, or that are being diligently contested in good faith by appropriate proceedings where the execution or enforcement of such Lien has been stayed and for which adequate reserves shall have been established on its books, which reserves shall be in conformity with GAAP, consistently applied;

Liens arising in the Ordinary Course of Business by virtue of any contractual, statutory or common law provision relating to banker's Liens, rights of set-off or similar rights and remedies covering deposit or securities accounts (including funds or other assets credited thereto) or other funds maintained with a depository institution or securities intermediary, provided the applicable provisions of Section 8.14 have been complied with in respect of such deposit or securities accounts;

leases, licenses, subleases or sublicenses (other than with respect to licenses or sublicenses of any technology or other IP Rights made on an exclusive basis) (i) existing on the date hereof, (ii) entered into by any such Loan Party or Subsidiary in the Ordinary Course of Business and not interfering in any material respect with the business of the Loan Parties and in their respective Subsidiaries, or (iii) between or among the Loan Parties (or between or among any Subsidiaries that are not Loan Parties);

any interest or title of a lessor, licensor, sublessor or sublicensor under any lease, license or sublease entered into by any such Loan Party or Subsidiary (i) prior to the date hereof, or (ii) in the Ordinary Course of Business, in each case, covering only the assets so leased, subleased, licensed or sublicensed;

Liens of sellers of goods to such Person arising under Article II of the UCC or similar provisions of Applicable Law in the Ordinary Course of Business, covering only the goods sold or securing only the unpaid purchase price of such goods and related expenses to the extent such Indebtedness is permitted hereunder;

Liens on insurance policies and the proceeds thereof securing the financing of premiums with respect thereto, to the extent permitted under Section 9.01(h);

precautionary Uniform Commercial Code filings made by a lessor pursuant to an operating lease of a Loan Party entered into in the Ordinary Course of Business;

Liens securing the performance of, or granted in lieu of, contracts with trade creditors, contracts (other than in respect of debt for borrowed money), leases, bids, statutory obligations, customs, surety, stay, appeal and performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case, incurred in the Ordinary Course of Business or consistent with industry practice and deposits securing letters of credit, bank guarantees or similar instruments posted to support payment of the items set forth in this clause (p); provided that such letters of credit, bank guarantees or similar instruments are issued in compliance with Section 9.01;

Liens (i) of a collection bank arising under Section 4–208 of the UCC or other similar provisions of Applicable Laws on items in the course of collection, (ii) in favor of a

banking institution arising as a matter of law encumbering deposits or other funds maintained with financial institutions (including the right of set–off), (iii) arising in connection with pooled deposit or sweep accounts, cash netting, deposit accounts or similar arrangements of the Borrower or its Subsidiaries and consisting of the right to apply the funds held therein to satisfy overdraft or similar obligations incurred in the Ordinary Course of Business of such Person, (iv) encumbering reasonable customary initial deposits and margin deposits and (v) granted in the Ordinary Course of Business by the Borrower or its Subsidiaries to any bank with whom it maintains accounts to the extent required by the relevant bank's (or custodian's or trustee's, as applicable) standard terms and conditions, in each case, which are within the general parameters customary in the banking industry;

Liens (i) in favor of customs and revenue authorities arising as a matter of law in the Ordinary Course of Business to secure payment of customs duties that (a) are not overdue by more than thirty (30) days or, if more than thirty (30) days overdue, are being contested in a manner consistent with Section 8.04 or (b) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect and (ii) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the Ordinary Course of Business;

Liens in respect of an agreement to dispose of any asset or any Subsidiary, to the extent such disposal is permitted by Section 6.04 and such Liens apply only to the assets or the Subsidiary to be disposed of;

other Liens with respect to which the aggregate amount of the obligations secured thereby does not exceed $10,000,000 at any time outstanding; provided, that if such Lien secures Funded Debt, such Lien shall only secure Indebtedness incurred pursuant to, and subject to the terms of, Sections 9.01(w) or (x); and

Liens, existing solely on or prior to the Closing Date, securing Indebtedness incurred pursuant to Section 9.01(y).

(q) ;provided, that, and notwithstanding anything to the contrary in this Section 9.02, no Loan Party nor any of its Subsidiaries, may directly or indirectly, create, incur, assume or suffer to exist any Lien (other than the Liens securing the Secured Obligations, Liens between or among Loan Parties and Liens permitted by Sections 9.02(g) and 9.02(i)) upon any Key IP.

Consolidation, Merger, etc.

Each Loan Party will not, and will not permit any of its Subsidiaries to, liquidate or dissolve, consolidate with, or merge into or with, any other Person, or purchase or otherwise acquire all or substantially all of the assets of any Person; provided, however, that (a) any Loan Party or Subsidiary of any Loan Party may liquidate or dissolve voluntarily into, and may merge with and into, the Borrower, so long as the Borrower is the surviving entity, (b) any Guarantor may liquidate or dissolve voluntarily into, and may merge with and into, any other Guarantor, (c) any Subsidiary of a Loan Party that is not itself a Loan Party may liquidate or dissolve voluntarily into, and may merge with and into, any Loan Party (so long as the surviving entity is such Loan Party) or any non-Loan Party Subsidiary, (d) the assets or Capital Stock of any Loan Party or Subsidiary of any Loan Party may be purchased or otherwise acquired by the Borrower, (e) the assets or Capital Stock of any Guarantor may be purchased or otherwise acquired by any Loan Party, (f) the assets or Capital Stock of any Subsidiary that is not a Loan Party may be purchased or otherwise acquired by any Loan Party or any non-Loan Party, (g) the Capital Stock of the Borrower may be purchased by any Person so long as no Change of Control results therefrom,

(h) any Person may merge into or amalgamate with the Borrower in an Investment permitted by Section 9.05 in which such Borrower is the surviving or continuing Person, (i) any Person may merge or amalgamate with a Subsidiary in an Investment permitted by Section 9.05 in which the surviving or continuing entity is a Loan Party (or the surviving or continuing Person assumes the Obligations of such non-surviving Loan Party in a manner reasonably acceptable to the Administrative Agent) and (j) in connection with the Disposition of a Subsidiary (other than a Borrower) or its assets permitted by Section 9.04, such Subsidiary may merge or amalgamate with or into any other Person.

Dispositions

Each Loan Party will not, and will not permit any of its Subsidiaries to, make a Disposition of such Loan Party's or such other Person's assets (including Accounts and Capital Stock of Subsidiaries) to any Person in one transaction or a series of transactions, unless such Disposition:

is of obsolete, worn out or surplus property or property not used or useful in such Person's business at the time of such Disposition;

is for fair market value and the following conditions are met:

the aggregate fair market value of Dispositions made in reliance on this clause (b) during any fiscal year does not exceed $10,000,000;

immediately prior to and immediately after giving effect to such Disposition, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

the Borrower applies any Net Disposition Proceeds arising therefrom pursuant to Section 4.02(a)(ii); and

no less than seventy-five percent (75%) of the consideration received for such sale, transfer, lease, contribution or conveyance is received in cash;

is a sale of Inventory in the Ordinary Course of Business;

is the leasing, as lessor, of real or personal property not used or useful in such Person's business and is otherwise in the Ordinary Course of Business;

is a sale or disposition of equipment or other assets, to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment or assets or the proceeds of such Dispositions are reasonably promptly applied to the purchase price of similar replacement equipment, all in the Ordinary Course of Business and in accordance with Section 4.02(a)(ii);

is an abandonment, allowing to lapse, failure to renew, or other Disposition of any IP Rights that are not material to the conduct of the business of any Loan Party or any Subsidiary of such Loan Party or are otherwise not economically practicable to maintain (it being understood, for the avoidance of doubt, that any IP Rights denoted with a "*" in Schedule 5 of the Perfection Certificate and Schedule 7.14(d) of the Loan Agreement are not material and are not economically practicable to maintain);

is otherwise permitted by Section 9.02, 9.03 or 9.05;

is by any Loan Party or Subsidiary thereof to any Loan Party;

is by any Subsidiary that is not a Loan Party to any Loan Party or any other Subsidiary that is not a Loan Party; or

are leases, subleases, licenses or sublicenses of property (and, with respect to technology or IP Rights, solely on a non-exclusive basis) in the Ordinary Course of Business

(r) ;provided, that, and notwithstanding anything to the contrary in this Section 9.04, no Loan Party nor any of its Subsidiaries, may Dispose of any Key IP other than (i) by any Loan Party or any Subsidiary thereof to any Loan Party and (ii) the Liens permitted by Sections 9.02(a), 9.02(g) and 9.02(i).

Investments

Each Loan Party will not, and will not permit any of its Subsidiaries to, purchase, make, incur, assume or permit to exist any Investment in any other Person, except:

Investments existing on the Closing Date and listed on Schedule 9.05;

Investments in cash and Cash Equivalents;

Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the Ordinary Course of Business;

Investments by way of contributions to capital or purchases of Capital Stock by any Loan Party in any of its Subsidiaries that are Loan Parties;

Investments constituting (i) Accounts arising, (ii) trade debt granted, or (iii) deposits made, in connection with the purchase price of goods or services, in each case in the Ordinary Course of Business;

Investments consisting of any deferred portion of the sales price received by any Loan Party in connection with any Disposition permitted under Section 9.04;

other Investments in an aggregate principal amount at any time not to exceed $20,000,000;

intercompany Indebtedness advanced by any Loan Party to any other Loan Party to the extent permitted pursuant to Section 9.01(j);

the maintenance of deposit accounts in the Ordinary Course of Business, so long as the applicable provisions of Section 8.14 have been complied with in respect of each such deposit account;

Guaranty Obligations constituting Indebtedness permitted by Section 9.01;

Investments consisting of Liens and Dispositions permitted under Sections 9.02 and 9.04, respectively;

advances of payroll payments to employees in the Ordinary Course of Business;

Guarantees by (i) the Borrower of leases of its Subsidiaries or (ii) by any Subsidiary of the Borrower of leases of the Borrower, in each case, solely to the extent not constituting Indebtedness;

endorsements of negotiable instruments and documents in the Ordinary Course of Business;

Investments (i) constituting deposits, prepayments and/or other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and/or (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the Ordinary Course of Business;

Investments constituting Permitted Acquisitions;

Investments made with (i) Capital Stock of the Borrower (other than Disqualified Capital Stock) or (ii) net cash proceeds of the purchase of, or in exchange for, Capital Stock of the Borrower (other than Disqualified Capital Stock or net cash proceeds of the PIPE Transactions) or cash capital contribution to the Borrower, in each case under this clause (ii) by equityholders of the Borrower; provided, that (1) such purchase, exchange or contribution occurs substantially concurrently with the consummation of such Investment and (2) such purchase, exchange or contribution is clearly identified pursuant to a certificate executed and delivered by an Authorized Officer of the Borrower to the Administrative Agent as a purchase, exchange or contribution to be used in connection with such Investment);

loans and advances to officers, directors and employees of any Loan Party for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the Ordinary Course of Business, in an aggregate principal amount at any time not to exceed $1,000,000; and

other Investments by any Loan Party in an aggregate amount not to exceed the Available Amount as of the applicable date of such Investment; provided that each of the following conditions are satisfied at the time such Investment is consummated:

no Default or Event of Default shall have occurred and be continuing or would result therefrom; and

after giving effect to such Investment, on a pro forma basis, as of the most recently completed Test Period, the ~~Borrower shall be in compliance with the applicable~~ Total Net Leverage Ratio ~~set forth in Section 9.13(a);~~of the Borrower and its Subsidiaries shall not be greater than 4.00 to 1.00.

~~;~~provided, that, and notwithstanding anything to the contrary in this Section 9.05, no Loan Party nor any of its Subsidiaries, may make any Investment that involves the assignment, contribution, transfer, license, sub-license or other Disposition of any Key IP to any Person other than a Loan Party.

Restricted Payments

Each Loan Party will not, and will not permit any of its Subsidiaries to, make any Restricted Payment, other than:

Restricted Payments by any Subsidiary of the Borrower to (i) the Borrower or (ii) such Subsidiary's direct parent company so long as such parent company is a Loan Party and a direct or indirect wholly-owned Subsidiary of the Borrower;

repurchases by the Borrower of its Capital Stock upon the exercise of stock options, warrants or other equity derivatives or settlement of convertible securities if such Capital Stock represents a portion of the exercise price of such options, warrants or other equity derivatives or the settlement price of such convertible securities and no cash is actually expended by the Borrower;

cash payments by the Borrower in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock in the Borrower;

Restricted Payments by any Loan Party or any Subsidiary of any Loan Party to pay dividends with respect to its Capital Stock payable solely in additional shares of Capital Stock (other than Disqualified Capital Stock);

to the extent constituting Restricted Payments, consummation by the Borrower and its Subsidiaries into transactions expressly permitted by Section 9.04;

repurchases of Capital Stock under equity incentive plans approved by the Borrower's board of directors to occur upon the exercise of stock options or warrants or similar equity incentive awards; provided, that (i) no Event of Default exists or would result immediately after giving effect to such payment, (ii) the amount paid in respect of such repurchases does not exceed $5,000,000 in the aggregate in any fiscal year;

Restricted Payments by any Subsidiaries of the Borrower that are not Loan Parties to other Subsidiaries of the Borrower that are not Loan Parties; and

other Restricted Payments by any Loan Party in an aggregate amount not to exceed the Available Amount as of the date of such Restricted Payment; provided that each of the following conditions are satisfied on such date:

no Default or Event of Default shall have occurred and be continuing or would result therefrom; and

after giving effect to such Restricted Payment, on a pro forma basis, as of the most recently completed Test Period, the Total Net Leverage Ratio shall not be greater than 3.50 to 1.00;

;provided, that, and notwithstanding anything to the contrary in this Section 9.06, no Loan Party nor any of its Subsidiaries, may make any Restricted Payment that involves the assignment, contribution, transfer, license, sub-license or other Disposition of any Key IP to any Person other than a Loan Party.

Payments and of Indebtedness; Cancellation of Indebtedness

Each Loan Party will not, and will not permit any of its Subsidiaries to, make any payment on account of Indebtedness that has been contractually subordinated in right of payment to the Obligations, if such payment is not permitted at such time under the subordination terms and conditions applicable thereto; provided that any Loan Party and any Subsidiary thereof may also make any such payment solely:

with (x) shares of Capital Stock of the Borrower (other than Disqualified Capital Stock) or (y) net cash proceeds of the purchase of, or in exchange for, Capital Stock of the Borrower (other than Disqualified Capital Stock or net cash proceeds of the PIPE Transactions) or cash capital contribution to the Borrower, in each

case under this clause (y) by equityholders of the Borrower; provided, that (1) such purchase, exchange or contribution occurs substantially concurrently with the consummation of such payment and (2) such purchase, exchange or contribution is clearly identified pursuant to a certificate executed and delivered by an Authorized Officer of the Borrower to the Administrative Agent as a purchase, exchange or contribution to be used in connection with such payment); and

in an aggregate amount not to exceed the Available Amount as of the date of such Restricted Payment; provided that each of the following conditions are satisfied on such date:

no Default or Event of Default shall have occurred and be continuing or would result therefrom; and

after giving effect to such Restricted Payment, on a pro forma basis, as of the most recently completed Test Period, the Total Net Leverage Ratio shall not be greater than 3.50 to 1.00.

Modification of Certain Agreements

Each Loan Party will not, and will not permit any of its Subsidiaries to, amend, supplement, waive, otherwise modify, or forbear from exercising any rights with respect to the terms or provisions of, or consent to any amendment, supplement, waiver, other modification or forbearance from exercising any rights with respect to the terms or provisions of: (a) any Material Contract or any Organization Document, in each case, other than any amendment, supplement, waiver, modification or forbearance that is not materially adverse to a Secured Party or the Loan Parties; (b) any document, agreement or instrument evidencing or governing any Indebtedness that has been subordinated to the Obligations in right of payment or any Liens that have been subordinated in priority to the Liens of the Collateral Agent, unless such amendment, supplement, waiver, other modification or forbearance is expressly permitted under the terms of the subordination agreement applicable thereto or (c) in any material respect, any contract, license, sublicense or agreement related to any Key IP.

Sale and Leaseback

Each Loan Party will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into any agreement or arrangement providing for the sale or transfer by it of any property (now owned or hereafter acquired) to a Person and the subsequent lease or rental of such property or other similar property from such Person.

Transactions with Affiliates

Except as set forth on Schedule 9.10, each Loan Party will not, and will not permit any of its Subsidiaries to, enter into or cause or permit to exist any arrangement, transaction or contract (including for the purchase, lease or exchange of property or the rendering of services) with any Affiliate involving aggregate payments or consideration in excess of $1,000,000 (each, an "Affiliate Transaction") except: (a) on terms and conditions, taken as a whole, no less favorable to such Loan Party or such Subsidiary than such Person could obtain in an arm's-length transaction with a Person that is not an Affiliate; (b) any transaction expressly permitted under this Loan Agreement (including Indebtedness permitted under Section 9.01(j)); (c) so long as it has been approved by the Borrower's or its applicable Subsidiary's board of directors or other governing body to the extent required in accordance with Applicable Law, (i) reasonable and customary compensation and indemnifications of non-officer directors of the Loan Parties and their respective Subsidiaries and (ii) the payment of reasonable and customary

compensation, severance and indemnification arrangements and benefit plans for officers and employees of the Loan Parties and their respective Subsidiaries in the Ordinary Course of Business and (d) any arrangement, transaction and contract with or among any other Loan Party in the Ordinary Course of Business.

Restrictive Agreements, etc

Each Loan Party will not, and will not permit any of its Subsidiaries to, enter into any agreement prohibiting or conflicting with any right granted hereunder with respect to:

the creation or assumption of any Lien upon its properties, revenues or assets, whether now owned or hereafter acquired, in each case, to secure the Obligations (other than Permitted Liens and documentation related thereto); or

the ability of such Person to make any payments, directly or indirectly, to the Borrower, including by way of dividends, advances, repayments of loans, reimbursements of management and other intercompany charges, expenses and accruals or other returns on investments;

provided, however, the foregoing prohibitions shall not apply to restrictions that: (i) are set forth in an agreement governing any secured Indebtedness permitted by Section 9.01 as to the transfer of assets financed with the proceeds of such Indebtedness if such restrictions apply only to the property or assets securing such Indebtedness, (ii) arise under customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses, joint venture agreements and other agreements entered into in the Ordinary Course of Business; (iii) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any assets or Capital Stock not otherwise prohibited under this Loan Agreement; (iv) are set forth in any agreement for any Disposition of any Subsidiary (or all or substantially all of the assets thereof) that restricts the payment of dividends or other distributions or the making of cash loans or advances by such Subsidiary pending such Disposition solely to the extent it relates only to property being sold in such Disposition; (v) are binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary, so long as such restrictions were not entered into solely in contemplation of such Person becoming a Subsidiary; (vi) are customary restrictions in leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate solely to the assets subject thereto; (vii) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Subsidiary; (viii) are on cash, other deposits or net worth or similar restrictions imposed by any Person under any contract entered into in the Ordinary Course of Business or for whose benefit such cash, other deposits or net worth or similar restrictions exist and to the extent limited solely to such assets; (ix) arise under or as a result of applicable Law or the terms of any license, authorization, concession or permit provided by a Governmental Authority; (x) relating to any asset (or all of the assets) of or the Capital Stock of the Borrower or any Subsidiary which is imposed pursuant to an agreement entered into in connection with any Disposition of such asset (or assets) or all or a portion of the Capital Stock of the relevant Person that is permitted or not restricted by this Loan Agreement (provided that any such agreement with respect to the Borrower shall result in a Change of Control); (xi) set forth in any agreement relating to any Permitted Lien that limits the right of the Borrower or any Subsidiary to Dispose of or encumber the assets subject thereto so long as no such agreement prohibits any Loan Party from creating or granting a Lien on any of its properties or assets to secure the Obligations; and (xii) are amendments, modifications, restatements, refinancings or renewals of the agreements, contracts or instruments referred to in subclauses (i) through (xi) of this proviso; provided that such amendments, modifications, restatements, refinancings or renewals are not materially more

restrictive with respect to such encumbrances and restrictions than those contained in such predecessor agreements, contracts or instruments.

Changes in Business and Fiscal Year

Each Loan Party will not, and will not permit any of its Subsidiaries to:

engage in any business activity other than the Business;

modify or change its fiscal year to end other than on December 31 of each year; ~~or~~

modify or change its method of accounting in any material respect except as may be required to conform to GAAP; or

(4) modify or change its revenue and expense recognition policies, including any assumptions or estimates used in determining revenues and expenses in connection with such policies, unless, prior to implementing any such changes, it shall have provided, or shall have caused its auditors to provide, to the Administrative Agent and the Lenders reasonable supporting documentation for such changes.

Financial Covenants

Maximum Total Net Leverage Ratio. The Loan Parties will not permit the Total Net Leverage Ratio, as of the last day of each fiscal quarter (i) ending June 30, 2020, September 30, 2020 and December 31, 2020, to be greater than 5.00 to 1.00, (ii) ending March 31, 2021 and June 30, 2021, to be greater than 4.50 to 1.00 and (iii) ending September 30, 2021 and ~~on~~December 31, 2021, to be greater than 4.00 to 1.00.

(5) Minimum Consolidated Total Net Sales. The Loan Parties will not permit the Consolidated Total Net Sales, as of the last day of the fiscal quarter ending on March 31, 2022, and as of the last day of each fiscal quarter ending thereafter, (each such date, a "Calculation Date") to be ~~greater~~less than ~~4.00 to 1.00~~the amount corresponding to such Calculation Date as set forth in the table below (the "Minimum Consolidated Total Net Sales Amount").

(6) ~~(b)~~

Calculation Date	Minimum Consolidated Total Net Sales Amount
March 31, 2022	[***]
June 30, 2022	[***]
September 30, 2022	[***]
December 31, 2022	[***]
March 31, 2023	[***]
June 30, 2023	[***]
September 30, 2023	[***]
December 31, 2023	[***]
March 31, 2024	[***]
June 30, 2024	[***]
September 30, 2024	[***]
December 31, 2024	[***]
March 31, 2025	[***]
June 30, 2025	[***]

(7) Minimum Liquidity. The Loan Parties will not permit Liquidity of the Borrower and its Subsidiaries at any time (i) prior to the Amendment No. 1 Effective Date, to be less than $10,000,000, and (ii) on and after the Amendment No. 1 Effective Date, to be less than $20,000,000.

[Reserved]

[Reserved]

Economic Sanctions/OFAC

The Borrower shall not (i) use, permit the Borrower or any of its Subsidiaries to use, or permit any of its or any of their respective directors, officers, employees, representatives or agents to use, any proceeds of any Loans, directly or knowingly indirectly, or (ii) lend, contribute or otherwise make available any proceeds of any Loans, directly or knowingly indirectly, to any Person: (x) to fund, finance or facilitate any activity, business or transaction of or with any Sanctioned Person or in any Sanctioned Country if such activity, business or transaction would result in, or in the good faith and reasonable opinion of the

Borrower would reasonably be expected to result in, a violation of any Sanctions (including OFAC Sanctions) applicable to a Loan Party, a Subsidiary of a Loan Party, or a Secured Party; or (y) in any manner that would result in a violation of any Sanctions (including OFAC Sanctions) applicable to a Loan Party, a Subsidiary of a Loan Party, or a Secured Party.

Anti-Terrorism Laws; Foreign Corrupt Practices Act

(15 U.S.C. § 78dd-1). The Loan Parties shall not fail in any material respects to comply with (x) any Anti-Terrorism Law or other Law referred to in Section 7.29 or (y) the Foreign Corrupt Practices Act or other applicable anti-corruption laws. The Borrower shall not, directly or indirectly, use the Loan proceeds, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, directly or indirectly, in whole or in part, to fund or facilitate any activities or business in violation of any Anti-Terrorism Law or other Law referred to in Section 7.29 or the Foreign Corrupt Practices Act or other applicable anti-corruption laws.

Use of Proceeds

No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries, to use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Loan Party or others incurred to purchase or carry Margin Stock, or otherwise in any manner which is in contravention of any Law or in violation of this Loan Agreement.

EVENTS OF DEFAULT

Listing of Events of Default

Each of the following events or occurrences described in this Section 10.01 shall constitute an "Event of Default":

Non-Payment of Obligations. The Borrower shall default in the payment of:

any principal of any Loan when such amount is due; provided that no Event of Default under this clause (a) shall result from a Lender declining a payment in writing in accordance with Section 4.05; or

any interest on any Loan and such default shall continue unremedied for a period of five (5) Business Days after such amount is due; or

any fee described in Article III or any other monetary Obligation, and such default shall continue unremedied for a period of five (5) Business Days after such amount is due.

Breach of Representation or Warranty. Any representation or warranty made or deemed to be made by any Loan Party in any Loan Document (including any certificate delivered pursuant to Article V or Article VI) is or shall be incorrect in any material respect on or as of the date when made or deemed to have been made (or, in the case of any representation or warranty that is already qualified in the text thereof as to "materiality", "Material Adverse Effect", or similar language, is or shall be incorrect in any respect on or as of the date when made or deemed to have been made).

Non-Performance of Certain Covenants and Obligations. Any Loan Party shall default in the due performance or observance of any of its obligations under Section 8.01(f)-(n), Section 8.02, Section 8.12, Section 8.14, Section 8.16, Section 8.17, Section 8.19, Section 8.22 or Article IX, or any Loan Party shall default in the due performance or observance of its obligations under any covenant applicable to it under the Guaranty and Security Agreement.

Non-Performance of Section 8.01. Any Loan Party shall default in the due performance and observance of Section 8.01(a), (b), (c) or (d), and such default shall continue unremedied for a period of two (2) Business Days; provided that the grace period in this Section 10.01(d) shall be available no more than three (3) times in each fiscal year, and the Borrower and its Subsidiaries shall provide the Administrative Agent with notice of any actual or expected delay of any deliverables subject to Section 8.01(a), (b), (c) or (d) on or prior to the applicable date such deliverables are required to be delivered pursuant to such Section 8.01;

Non-Performance of Other Covenants and Obligations. Any Loan Party shall default in the due performance and observance of any obligation contained in any Loan Document executed by it (other than as specified in Sections 10.01(a) through (c)), and such default shall continue unremedied for a period of thirty (30) Business Days after earlier of (1) receipt by the Borrower of notice from the Administrative Agent of such default and (2) actual knowledge of the Borrower or any other Loan Party of such default.

Suspension, Debarment or Exclusion. (x) Any Loan Party is suspended, debarred, or excluded in accordance with 21 U.S.C. § 335a, 42 U.S.C. § 1320a-7, or similar provision of Law, or (y) any officer or employee of any Loan Party is suspended, debarred, or excluded in accordance with 21 U.S.C. § 335a, 42 U.S.C. § 1320a-7, or similar provision of Law and, solely in the case of this sub-clause (y), such suspension, debarment or exclusion would reasonably be expected to have a Material Adverse Effect.

Default on Other Indebtedness. (i) A Loan Party or Subsidiary thereof shall default in the payment of any amount when due (subject to any applicable grace period), whether by acceleration or otherwise, of any principal or stated amount of, or interest or fees on any Material Indebtedness, or a Loan Party or Subsidiary thereof shall default in the performance or observance of any covenant, obligation or condition with respect any Material Indebtedness and the effect of such default is to accelerate the maturity of such Material Indebtedness or to permit the holder or holders of such Material Indebtedness, or any trustee or agent for such holders, to cause or declare any such Material Indebtedness to become immediately due and payable, or to require any such Material Indebtedness to be or prepaid, redeemed, purchased or defeased, or to require an offer to purchase or defease any such Material Indebtedness to be made, prior to its expressed maturity, or (ii) any Material Indebtedness shall otherwise be required to be prepaid, redeemed, purchased or defeased, or require an offer to purchase or defease such Material Indebtedness to be made, prior to its expressed maturity; provided, that this clause (g) shall not apply to (x) secured Indebtedness permitted under this Loan Agreement that becomes due as a result of the Disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness, to the extent such Indebtedness is promptly repaid in full with the proceeds thereof, and (y) guarantees of Indebtedness that are satisfied promptly upon demand; provided further that this clause (g) shall not apply if the relevant circumstance or event has been remedied or waived by the holders of such Material Indebtedness prior to any exercise of remedies pursuant to Section 10.02.

Criminal Conviction. Any Loan Party or Subsidiary thereof is convicted of a federal crime.

Judgments. Any final judgment, order, court approved settlement or other settlement (of any litigation) for the payment of money individually or in the aggregate in excess of $5,000,000 (exclusive of any amounts fully covered (x) by third-party indemnification as to which the indemnitor has been notified of such indemnification obligation and acknowledged its responsibility to cover such judgement, order, court-approved settlement or other settlement or (y) by insurance (less any applicable deductible) and as to which the insurer has acknowledged its responsibility to cover such judgment, order, court-approved settlement or other settlement) shall be rendered against any Loan Party or any Subsidiary of any Loan Party and such judgment, order, court approved settlement or other settlement shall not have been paid, vacated or discharged or effectively stayed or bonded pending appeal within thirty (30) days after the entry thereof or enforcement proceedings shall have been commenced by any creditor upon such judgment, order or court-approved settlement, and such enforcement proceedings have not been effectively stayed, vacated or bonded.

ERISA. Any of the following events shall occur:

one or more ERISA Events that, together with all other such events or conditions, if any, could reasonably be expected to result in the imposition of a liability or obligation on any Loan Party or any ERISA Affiliate in excess of $2,500,000; or

a contribution failure occurs with respect to any Plan sufficient to give rise to a Lien under Sections 303(k) or 4068 of ERISA or Section 430(k) of the Code.

Bankruptcy, Insolvency, etc. Any Loan Party or any Subsidiary of any Loan Party shall:

become insolvent or generally fail to pay, or admit in writing its inability or unwillingness generally to pay, its debts as they become due;

apply for, consent to, or acquiesce in the appointment of a trustee, receiver, sequestrator or other custodian for any substantial part of the assets or other property of any such Person, or make a general assignment for the benefit of creditors;

in the absence of such application, consent or acquiesce to or permit or suffer to exist, the appointment of a trustee, receiver, sequestrator or other custodian for a substantial part of the property of any thereof, and such trustee, receiver, sequestrator or other custodian shall not be discharged within sixty (60) days; provided, that each Loan Party hereby expressly authorizes each Secured Party to appear in any court conducting any relevant proceeding during such 60-day period to preserve, protect and defend such Secured Party's rights under the Loan Documents;

permit or suffer to exist the commencement of any bankruptcy, reorganization, debt arrangement or other case or proceeding or action under the Bankruptcy Code or any other bankruptcy or insolvency law or any dissolution, winding up or liquidation proceeding in respect thereof, and, if any such case or proceeding is not commenced by such Person, such case or proceeding shall be consented to or acquiesced to by such Person or shall result in the entry of an order for relief or shall remain undismissed for sixty (60) days; provided, that each Loan Party hereby expressly authorizes each Secured Party to appear in any court conducting any such case or proceeding during such 60-day period to preserve, protect and defend such Secured Party's rights under the Loan Documents; or

take any action authorizing, or in furtherance of, any of the foregoing.

Impairment of Security, etc. Any Loan Document or any Lien with respect to more than $1,000,000 of the Collateral granted under any Loan Document shall, in whole or in part, terminate, cease to be effective or cease to be the legally valid, binding and enforceable obligation of any Loan Party party thereto (other than as the result of the action or inaction of the Administrative Agent), or any Loan Party shall, directly or indirectly, contest, deny or limit in any manner such effectiveness, validity, binding nature or enforceability; or, except as expressly permitted under any Loan Document, any Lien with respect to more than $1,000,000 of the Collateral securing any Obligation shall, in whole or in part, cease to be a valid and perfected Lien (other than as the result of the action or inaction of the Administrative Agent, the Collateral Agent or the Lenders), or shall become subordinated to any Lien not securing any Obligation, or any Loan Party or any Affiliate of any Loan Party shall assert that any Lien securing any Obligation shall, in whole or in part, ceases to be a valid or perfected Lien.

Change of Control. The occurrence of a Change of Control.

Restraint of Operations; Loss of Assets. If any Loan Party or any Subsidiary of a Loan Party is enjoined, restrained or in any way prevented by court order or other Governmental Authority from continuing to conduct all or any material part of its business affairs, or if any material portion of any Loan Party's or any Loan Party's Subsidiary's assets is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any third Person and the same is not discharged before the earlier of forty-five (45) days after the date it first arises or five (5) days prior to the date on which such property or asset is subject to forfeiture by such Loan Party or the applicable Subsidiary; in each case, which would reasonably be expected to result in a Material Adverse Effect.

Invalidity of Subordination Provisions. The subordination provisions of any agreement or instrument governing any Indebtedness required to be subordinated to the Obligations pursuant to the terms hereof shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Loan Party shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations, for any reason shall not have the priority contemplated by this Loan Agreement or such subordination provisions.

Remedies Upon Event of Default

If any Event of Default under Section 10.01(k) shall occur for any reason, whether voluntary or involuntary, all of the outstanding principal amount of the Loans and other Obligations shall automatically be due and payable together with the Prepayment Premium (payable pursuant to Section 3.02 and Section 4.02(a)(vii)) applicable to the date such Event of Default occurs, and any Commitments shall be terminated, in each case, without further notice, demand or presentment. The parties hereto acknowledge and agree that the Prepayment Premium referred to in this Section 10.02(a) (i) is additional consideration for providing the Loans, (ii) constitutes reasonable liquidated damages to compensate the Lenders for (and is a proportionate quantification of) the actual loss of the anticipated stream of interest payments upon an acceleration of the Loans (such damages being otherwise impossible to ascertain or even estimate for various reasons, including, without limitation, because such damages would depend on, among other things, (x) when the Loans might otherwise be repaid and (y) future changes in interest rates which are not readily ascertainable on the date hereof or the Closing Date), and (iii) is not a penalty to punish the Borrower for its early prepayment of the Loans or for the occurrence of any Event of Default or acceleration.

If any Event of Default (other than any Event of Default under Section 10.01(k)) shall occur for any reason, whether voluntary or involuntary, and be continuing, the Administrative Agent may with the consent of, and shall upon the direction of, the Required Lenders, by notice to the Borrower take any or all of the following actions: (y) declare all or any portion of the outstanding principal amount of the Loans and other Obligations to be due and payable together with the Prepayment Premium (payable pursuant to Section 3.02 and Section 4.02(a)(vii)) applicable to the date such Event of Default occurs, and any commitments shall be terminated, whereupon the full unpaid amount of such Loans, Prepayment Premium and other Obligations that shall be so declared due and payable shall be and become immediately due and payable, in each case, without further notice, demand or presentment and (z) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Laws. The parties hereto acknowledge and agree that the Prepayment Premium referred to in this Section 10.02(b) (i) is additional consideration for providing the Loans, (ii) constitutes reasonable liquidated damages to compensate the Lenders for (and is a proportionate quantification of) the actual loss of the anticipated stream of interest payments upon an acceleration of the Loans (such damages being otherwise impossible to ascertain or even estimate for various reasons, including, without limitation, because such damages would depend on, among other things, (x) when the Loans might otherwise be repaid and (y) future changes in interest rates which are not readily ascertainable on the date hereof or the Closing Date), and (iii) is not a penalty to punish the Borrower for its early prepayment of the Loans or for the occurrence of any Event of Default or acceleration.

Upon the occurrence and during the continuance of an Event of Default, Agents may enter, and is hereby given a right, then exercisable in Agents' discretion, to occupy, any of Borrower's premises or other premises without legal process and without incurring liability to Borrower therefor, and Agents may thereupon, or at any time thereafter, in their discretion without notice or demand, take the Collateral and remove the same to such place (on any premises of the Borrower or any other premises) as Agents may deem advisable and Agents may require Borrower to make the Collateral available to Agents at a convenient place. With or without having the Collateral at the time or place of sale, Agents may sell the Collateral, or any part thereof, at public or private sale, at any time or place, in one or more sales, at such price or prices, and upon such terms, either for cash, credit or future delivery, as Agents may elect. Except as to that part of the Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Agents shall give Borrower reasonable notification of such sale or sales, it being agreed that in all events written notice mailed to Borrower at least ten (10) days prior to such sale or sales is reasonable notification. At any public sale Agents or any Lender may bid (and credit bid) for and become the purchaser, and Agents, any Lender or any other purchaser at any such sale thereafter shall hold the Collateral sold absolutely free from any claim or right of whatsoever kind, including any equity of redemption and all such claims, rights and equities are hereby expressly waived and released by the Borrower. In connection with the exercise of the foregoing remedies (and only exercisable upon the occurrence and during the continuance of an Event of Default), including the sale of Inventory, subject to Permitted Liens, the terms of licenses to any Loan Party with respect to IP Rights licensed to such Loan Party, and to the extent such Loan Party is able to grant a license or sublicense in the underlying license, Agents are granted a perpetual (during the continuance of an Event of Default) irrevocable (during the continuance of an Event of Default), non-exclusive license (without any payment of royalties to any Loan Party) and permission to use all of such Loan Party's (x) IP Rights which are used or useful in connection with Inventory for the purpose of marketing, advertising for sale and selling or otherwise disposing of such Inventory, subject, in the case of trademarks and service marks, to the maintenance of standards of quality reasonably comparable to those maintained by such Loan Party as of the date Agents commenced their exercise of such remedies and (y) equipment for the purpose of completing the manufacture of unfinished goods. The cash proceeds realized from the sale of any Collateral shall be applied to the Obligations in the order set forth in Section 4.02(c) hereof. Noncash

proceeds will only be applied to the Obligations as they are converted into cash. If any deficiency shall arise, Borrower shall remain liable to Agents and Lenders therefor.

To the extent that applicable law imposes duties on any Agent to exercise remedies in a commercially reasonable manner, Borrower acknowledges and agrees that it is not commercially unreasonable for any Agent (i) to fail to incur expenses reasonably deemed significant by such Agent to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Customers or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (iv) to exercise collection remedies against Customers and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as the Borrower, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure such Agent against risks of loss, collection or disposition of Collateral or to provide to Agents a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by such Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist such Agent in the collection or disposition of any of the Collateral. Borrower acknowledges that the purpose of this Section 10.02(d) is to provide non-exhaustive indications of what actions or omissions by the Agents would not be commercially unreasonable in the Agents' exercise of remedies against the Collateral and that other actions or omissions by any Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 10.02(d). Without limitation upon the foregoing, nothing contained in this Section 10.02(d) shall be construed to grant any rights to Borrower or to impose any duties on any Agent that would not have been granted or imposed by this Loan Agreement or by Applicable Law in the absence of this Section 10.02(d).

Upon the occurrence and during the continuance of an Event of Default, subject to the prior rights, if any, of holders of Permitted Liens, the Agents shall have the right to take possession of the Collateral and the Collateral in whatever physical form contained, including: labels, stationery, documents, instruments and advertising materials. If any Agent exercises this right to take possession of the Collateral, Borrower shall, upon demand, assemble it in the best manner reasonably possible and make it available to such Agent at a place reasonably convenient to such Agent. In addition, with respect to all Collateral, the Agents and Lenders shall be entitled to all of the rights and remedies set forth herein and further provided by the Uniform Commercial Code or other applicable law. Upon the occurrence and during the continuance of an Event of Default, Borrower shall at the request of any Agent, and each Agent may, at its option, instruct all suppliers, carriers, forwarders, warehousers or others receiving or holding cash, checks, Inventory, documents or instruments in which such Agent holds a security interest to deliver same to such Agent and/or subject to such Agent's orders and if they shall come into a Borrower's possession, they, and each of them, shall be held by the Borrower in trust as Agents' trustee, and Borrower will immediately deliver them to such Agent in their original form together with any necessary endorsement.

All Prepayment Premium referred to in Sections 10.02(a) and (b) above shall be payable upon an acceleration of any Obligations, whether before, during or after the commencement of any proceeding under the Bankruptcy Code involving the Borrower or any other Loan Party.

The Lenders and the Agents shall have all other rights and remedies available at law or in equity or pursuant to this Loan Agreement or any other Loan Document.

THE AGENTS

Appointments

Each Lender and each other Secured Party hereby appoints HAYFIN SERVICES LLP as its Administrative Agent under and for purposes of each Loan Document, and hereby authorizes the Administrative Agent to act on behalf of such Secured Party under each Loan Document and, in the absence of other written instructions from the Lenders pursuant to the terms of the Loan Documents received from time to time by the Administrative Agent, to exercise such powers hereunder and thereunder as are specifically delegated to or required of the Administrative Agent by the terms hereof and thereof, together with such powers as may be incidental thereto.

Each Lender and each other Secured Party hereby appoints HAYFIN SERVICES LLP, a Delaware limited liability company, as its Collateral Agent under and for purposes of each Loan Document, and hereby authorizes the Collateral Agent to act on behalf of such Secured Party under each Loan Document and, in the absence of other written instructions from the Lenders pursuant to the terms of the Loan Documents received from time to time by the Collateral Agent, to exercise such powers hereunder and thereunder as are specifically delegated to or required of the Collateral Agent by the terms hereof and thereof, together with such powers as may be incidental thereto.

Each Lender and each other Secured Party hereby directs the Agents to execute and deliver the Loan Documents (including any intercreditor agreements and subordination agreements contemplated hereby and, in each case, any amendments, supplements and other modifications thereto not prohibited by the terms of the Loan Agreement) on behalf of such Secured Party, in all cases in such form as the applicable Agent shall determine. Upon execution and delivery of the Loan Documents by an Agent, each Secured Party shall be bound by the terms and conditions thereof. Without limiting the foregoing, the Administrative Agent is hereby expressly authorized to execute and deliver any and all such documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the terms and conditions of this Loan Agreement and the other Loan Documents. For purposes of determining compliance with, and satisfaction of, the conditions specified in Article V and Article VI, each Lender that has signed this Loan Agreement (or an Assignment and Acceptance, as applicable) shall be deemed to have consented to, approved, accepted and be satisfied with, each document or other matter required thereunder to be consented to, approved by or otherwise satisfactory or acceptable to such Lender unless the Administrative Agent shall have received written notice from such Lender prior to the Closing Date specifying such Lender’s objection thereto.

Each Lender and each other Secured Party hereby irrevocably designates and appoints each Agent as the agent of such Lender. Notwithstanding any provision to the contrary elsewhere in this Loan Agreement, (i) each Agent is acting solely on behalf of the Secured Parties and with duties that are entirely administrative in nature, notwithstanding the use

of the terms “Administrative Agent,” “Collateral Agent,” “Agent,” and “agent,” which terms are used for title purposes only, and (ii) no Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender or other Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Loan Agreement or any other Loan Document or otherwise exist against any Agent. Anything contained in any of the Loan Documents to the contrary notwithstanding, each Loan Party, the Administrative Agent, the Collateral Agent and each Secured Party hereby agree that (i) no Secured Party (other than the Agents) shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty and Security Agreement or any other Security Documents, it being understood and agreed that all powers, rights and remedies hereunder or thereunder may be exercised solely by the Agents, on behalf of the Secured Parties, in accordance with the terms hereof or thereof (including, without limitation, acting at the direction of the Required Lenders), as applicable, and (ii) in the event of a foreclosure by any of the Agents on any of the Collateral pursuant to a public or private sale or other disposition, any Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and each Agent as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations (including Obligations owed to any other Secured Party) as a credit on account of the purchase price for any Collateral payable by such Agent at such sale or other disposition, the Lenders hereby agreeing that they may not exercise any right to credit bid at any public or private foreclosure sale or other disposition of Collateral unless instructed to do so by the applicable Agent in writing.

Delegation of Duties

Each Agent may execute any of its duties under this Loan Agreement and the other Loan Documents by or through agents or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. No Agent shall be responsible for the negligence or misconduct of any agents or attorneys in fact selected by it with reasonable care.

Exculpatory Provisions

Neither an Agent nor any of their respective officers, directors, employees, agents, attorneys in fact or Affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Loan Agreement or any other Loan Document (including that any Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Bankruptcy Code or any other bankruptcy or insolvency laws or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of the Bankruptcy Code or any other bankruptcy or insolvency law), except to the extent that any of the foregoing are found by a final, non-appealable order of a court of competent jurisdiction to have resulted from its or such Person’s (as applicable) own gross negligence or willful misconduct, or (b) responsible in any manner to any of the Lenders or any other Secured Party for any recitals, statements, representations or warranties made or deemed made by or on behalf of any Loan Party or any officer thereof in this Loan Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agents under or in connection with, this Loan Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Loan Agreement or any other Loan Document or for any failure of any Loan Party or other Person to perform its obligations hereunder or thereunder. The Agents shall not be

under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Loan Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

Reliance by Agents

Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Loan Parties), independent accountants and other experts selected by such Agent. The Agents may deem and treat the payee of any note as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Agents. Each Agent shall be fully justified in failing or refusing to take any action under this Loan Agreement or any other Loan Document unless it shall first receive such advice or concurrence of Required Lenders (or, if so specified by this Loan Agreement, all or other requisite Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in acting, or in refraining from acting, under this Loan Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Loan Agreement, all Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans and all other Secured Parties.

Notice of Default

No Administrative Agent shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the Administrative Agent has received written notice from a Lender or the Borrower referring to this Loan Agreement, describing such Default or Event of Default, and stating that such notice is a “notice of default”. The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Collateral Agent has received notice from a Lender or the Borrower referring to this Loan Agreement, describing such Default or Event of Default, and stating that such notice is a “notice of default”. In the event that an Agent receives such a notice, such Agent shall give notice thereof to the other Agent and the Lenders. Each Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Loan Agreement, all Lenders or any other instructing group of Lenders specified by this Loan Agreement); provided, that unless and until the applicable Agent shall have received such directions, such Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as such Agent shall deem advisable in the best interests of the Secured Parties.

Non-Reliance on Agents and Other Lenders

Each Lender expressly acknowledges that neither the Agents nor any of their respective officers, directors, employees, agents, attorneys in fact or Affiliates have made any representations or warranties to such Lender and that no act by any Agent hereafter taken, including any review of the affairs of a Loan Party or any Affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by any Agent to any Secured Party. Each Lender represents to the Agents that such Lender has, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, operations, property, financial and other condition and creditworthiness of the Loan

Parties and their Affiliates and made its own decision to enter into this Loan Agreement and make its Loans hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent or any other Lender or any other Secured Party, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Loan Agreement and the other Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent hereunder, the Agents shall not have any duty or responsibility to provide any Lender or any other Secured Party with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any Affiliate of a Loan Party that may come into the possession of such Agent or any of its officers, directors, employees, agents, attorneys in fact or Affiliates.

Indemnification by Lenders

The Lenders agree to indemnify each Agent in its capacity as such (to the extent not reimbursed by the Loan Parties and without limiting the obligation of the Loan Parties to do so), ratably according to their respective Total Credit Exposure in effect on the date on which indemnification is sought under this Section 11.07 (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Total Credit Exposure immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by, or asserted against, such Agent in any way relating to or arising out of, the Commitments, this Loan Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent under or in connection with any of the foregoing; provided, that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final, non-appealable order of a court of competent jurisdiction to have resulted from such Agent's gross negligence or willful misconduct. The agreements in this Section 11.07 shall survive the payment of the Loans and all other amounts payable hereunder.

Agents in their Individual Capacities

Each Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with any Loan Party, and any Affiliate of any Loan Party, all as though such Agent were not an Agent. With respect to its Loans made or renewed by it, each Agent shall have the same rights and powers under this Loan Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an Agent, and the terms "Lender", "Lenders", "Secured Party" and "Secured Parties" shall include each Agent in its individual capacity.

Successor Agents

Either Agent may resign as Agent upon thirty (30) days' written notice to the Lenders, the other Agent and the Borrower; provided that either Agent may resign as an Agent immediately upon written notice to the Lenders, the other Agent and the Borrower if a Default or Event of Default has occurred and is continuing. If either Agent shall resign as such Agent in its applicable capacity under this Loan Agreement and the other Loan Documents, then Required Lenders shall appoint from among the Lenders a successor agent, which successor

agent shall (unless an Event of Default shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld, delayed, conditioned or burdened), whereupon such successor agent shall succeed to the rights, powers and duties of such Agent in its applicable capacity, and the term "Administrative Agent" or "Collateral Agent", as applicable, shall thereafter mean such successor agent effective upon such appointment and approval, and the former Agent's rights, powers and duties as Agent in its applicable capacity shall be terminated, without any other or further act or deed on the part of such former Agent or any of the other parties to this Loan Agreement or any holders of the Loans. If no successor agent has accepted appointment as such Agent in its applicable capacity by the date upon which such retiring Agent's notice of resignation is effective in accordance with the first sentence of this Section 11.09, such retiring Agent's resignation shall nevertheless become effective on the applicable date and the Lenders shall assume and perform all of the duties of such Agent hereunder until such time, if any, as Required Lenders appoint a successor agent as provided for above. After any retiring Agent's resignation as the Administrative Agent or the Collateral Agent, as applicable, the provisions of this Article XI shall inure to its benefit as to any actions taken or omitted to be taken by it while it was an Agent under this Loan Agreement and the other Loan Documents.

Agents Generally

Except as expressly set forth in this Loan Agreement or any other Loan Document, no Agent shall have any duties or responsibilities hereunder in its capacity as such.

Restrictions on Actions by Secured Parties; Sharing of Payments

Each of the Lenders agrees that it shall not, without the express written consent of the Collateral Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the written request of the Collateral Agent, set off against the Obligations, any amounts owing by such Lender to any Loan Party or any of their respective Subsidiaries or any deposit accounts of any Loan Party or any of their respective Subsidiaries now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so in writing by the Collateral Agent or the Collateral Agent otherwise consents in writing, take or cause to be taken any action, including the commencement of any legal or equitable proceedings, judicial or otherwise, to enforce any Loan Document or any right or remedy against any Loan Party or to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral. The provisions of this Section 11.11(a) are for the sole benefit of the Secured Parties and shall not afford any right to, or constitute a defense available to, any Loan Party or other Person.

Subject to Section 12.09(b), if at any time or times any Lender receives (i) by payment, foreclosure, setoff, or otherwise, any proceeds of Collateral or any payments with respect to the Obligations, except for any such proceeds or payments received by such Lender from the Administrative Agent pursuant to the terms of this Loan Agreement, or (ii) payments from the Administrative Agent in excess of such Lender's *pro rata* share of all such distributions by the Agents, then in each such case such Lender promptly shall (A) turn the same over to the Collateral Agent, in kind, and with such endorsements as may be required to negotiate the same to the Collateral Agent, or in immediately available funds, as applicable, for the account of all of the applicable Lenders and for application to the Obligations in accordance with the applicable provisions of this Loan Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the Obligations owed to the other applicable Lenders so that such excess payment received shall be applied ratably as among the applicable Lenders in accordance with their *pro rata* shares; provided, that to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid

therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

Agency for Perfection

The Collateral Agent hereby appoints each other Secured Party as its agent and bailee and as sub-agent for the other Secured Parties (and each Secured Party hereby accepts such appointment) for the purpose of perfecting all Liens with respect to the Collateral, including with respect to assets which, in accordance with Article 8 or Article 9, as applicable, of the Uniform Commercial Code of any applicable state can be perfected by possession or control. Should any Secured Party obtain possession or control of any such Collateral, such Secured Party shall notify the Collateral Agent thereof and, promptly upon the Collateral Agent's request therefor, shall deliver possession or control of such Collateral to the Collateral Agent and take such other actions as agent or sub-agent in accordance with the Collateral Agent's instructions to the extent, and only to the extent, so authorized or directed by the Collateral Agent.

Credit Bid

Each Loan Party, each Lender and the Collateral Agent each hereby irrevocably authorizes the Administrative Agent or its designee, based upon the written instruction of Required Lenders, to bid and purchase for an amount approved by Required Lenders (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted (i) by any Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, (ii) under the provisions of the Bankruptcy Code, including Sections 363, 365 and 1129 of the Bankruptcy Code, or (iii) by any Agent (whether by judicial action or otherwise, including a foreclosure sale) in accordance with Applicable Law (any such sale described clauses (i), (ii) or (iii), a "Collateral Sale"), and in connection with any Collateral Sale, the Administrative Agent or its designee may (with the consent of Required Lenders) accept non-cash consideration, including debt and equity securities issued by such acquisition vehicle under the direction or control of any Agent and the Administrative Agent may (with the consent of Required Lenders) offset all or any portion of the Obligations against the purchase price for such Collateral.

One Lender Sufficient

This Loan Agreement shall be and shall remain in full force and effect, and all agency provisions shall be and shall remain effective, notwithstanding the fact that from time to time (including on the date hereof and on the Closing Date) there may be only one Lender hereunder and the fact that such Lender may be the same Person that is serving as the Administrative Agent or the Collateral Agent hereunder.

MISCELLANEOUS

Amendments and Waivers

Neither this Loan Agreement nor any other Loan Document other than the Fee Letter (which may be amended, restated, amended and restated, supplemented or modified in accordance with the terms therein), nor any terms hereof or thereof, may be amended, restated, amended and restated, supplemented or modified except in accordance with the provisions of this Section 12.01.

The Required Lenders may (with a copy to the Administrative Agent), or with the consent of the Required Lenders, the Administrative Agent may, from time to time, (a) enter into with the relevant Loan Party or Loan Parties written amendments, restatements, amendments and restatements, supplements or other modifications hereto and to the other Loan Documents (other than the Fee Letter) and (b) waive, on such terms and conditions as the Required Lenders or the Administrative Agent, as the case may be, may specify in such instrument, any of the requirements of this Loan Agreement or the other Loan Documents (other than the Fee Letter) or any Default or Event of Default and its consequences; provided, however, that no such amendment, supplement, other modification or waiver shall:

without the prior written consent of each Lender directly and adversely affected thereby:

reduce or forgive any portion of any Loan, or extend the final expiration date of any Lender's Commitment, or extend the Maturity Date of any Loan, or reduce the stated interest rate on any Loan; provided that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.05(d),

reduce or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder (other than as a result of waiving the applicability of any post-default increase in interest rates and other than as a result of a waiver or amendment of any mandatory prepayment of Loans or any waiver, amendment, supplement or modification of Section 4.02 (which, in each case, shall not constitute an extension, forgiveness or postponement of any date for payment of principal, interest or fees and may be made with the consent of the Required Lenders only)),

[reserved], or

amend, modify or waive any provision of this Section 12.01, or amend or otherwise modify the term "Required Lenders";

consent to the assignment or transfer by any Loan Party of its rights and obligations under any Loan Document to which it is a party (except as permitted pursuant to Section 9.03), without the prior written consent of each Lender;

increase the aggregate amount of any Commitment of any Lender without the prior written consent of such Lender;

amend, modify or waive any provision of Article XI without the prior written consent of then-current Collateral Agent and the Administrative Agent; or

without the prior written consent of each Lender, release all or substantially all of the Guarantors under the Guaranty and Security Agreement (except as expressly permitted by the Guaranty and Security Agreement), or release all or substantially all of the Collateral under the Guaranty and Security Agreement and the Mortgages (except as expressly permitted thereby and by Section 12.20).

Notwithstanding anything in Section 12.01(b) to the contrary, (1) the Administrative Agent and the Loan Parties, without the consent of any Lenders or any other Loan Parties, may amend, modify or supplement this Loan Agreement or any other Loan Document (i) solely to correct mistakes or typographical errors or cure ambiguities, inconsistencies or omissions herein or therein, so long as (x) such amendment, modification or

supplement does not materially and adversely affect the rights of any Lender or (y) the Lenders shall have received at least five (5) Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five (5) Business Days following the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment, modification or supplement and (ii) to effect the granting, perfection, protection, expansion or enhancement of any security interest of the Secured Parties in any Collateral or additional property to become Collateral for the benefit of the Secured Parties or as required by local law to give effect to or protect any such security interests in any property or so that the security interests therein comply with the Loan Documents or Applicable Law or in each case otherwise enhance the rights or benefits of any Agent or any Lender under any Loan Document and (2) solely with the consent of the Hayfin Lenders (or, if there are no Hayfin Lenders at such time, the Administrative Agent) and the Borrower (but without the consent of the Required Lenders or any other Lender) any agreement may waive, amend or modify Section 2.08(b)(vi) or (c)(v) or any of the component definitions used therein.

Notices and Other Communications

Subject to Section 12.02(c) below, all notices and other communications provided for in, or otherwise given under or in connection with, this Loan Agreement or any other Loan Document, shall be in writing and shall be delivered either by hand, by overnight courier service, by certified or registered mail, by telefacsimile or by email (in portable document format ("pdf") or tagged image file format ("TIFF")) as follows:

if to any Loan Party, to it at:

MIMEDX GROUP, INC.
1775 West Oak Commons Ct. NE
Marietta, GA 30062
Attention: Peter M Carlson

Email: pcarlson@mimedx.com

with a copy to (which does not constitute notice):

~~Sidley Austin~~Reed Smith LLP
~~787 Seventh Avenue~~
~~New York, NY 10019~~10 S. Wacker Drive
Chicago, IL 60606
Attention: ~~Ram Burshtine~~Benjamin L. Brimeyer
Facsimile No.: (~~212~~312) ~~839-5599~~207-6400
Email: ~~rburshtine@sidley~~bbrimeyer@reedsmith.com

if the Administrative Agent or the Collateral Agent, to it at:

HAYFIN SERVICES LLP
One Eagle Place, London, SW1Y 6AF
United Kingdom
Attention: Loanops / Legal, Andrew Merrill & Barrett Polan
Telephone: +44 0207 074 2900
Facsimile: +44 0207 692 4641
Email: ~~gc@hayfin.com, loanops@hayfin.com, Andrew.Merrill@hayfin.com, & Barrett.Polan@hayfin.com~~gc@hayfin.com,

loanops@hayfin.com, Andrew.Merrill@hayfin.com, & Barrett.Polan@hayfin.com

with a copy to (which does not constitute notice):

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attention: Damian Ridealgh
Facsimile No.: (212) 310-8007
Email: Damian.ridealgh@weil.com

if to any Lender, to it at its address, facsimile number or email address set forth either on the signature pages hereto or its Assignment and Acceptance or in its Administrative Questionnaire, as applicable.

Any party hereto may change its address, facsimile number or email address for notices and other communications hereunder by notice delivered to all of the other parties hereto in accordance with Section 12.02(a) above; provided, that, for purposes of delivery to the Lenders, or from any Lender, such notice may be provided to the Administrative Agent for distribution to the other applicable parties.

All notices and other communications given to any party hereto in accordance with the provisions of this Loan Agreement shall be deemed to have been given (i) in the case of notices and other communications delivered by hand or overnight courier service, upon actual receipt thereof, (ii) in the case of notices and other communications delivered by certified or registered mail, upon the earlier of actual delivery and the third Business Day after the date deposited in the U.S. mail with postage prepaid and properly addressed, (iii) in the case of notices and other communications delivered by telefacsimile, upon receipt by the sender of an acknowledgment or transmission report generated by the machine from which the telefacsimile was sent indicating that the telefacsimile was sent in its entirety to the recipient's telefacsimile number and (iv) in the case of notices and other communications delivered by email, upon receipt by the sender of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, a return email or other written acknowledgement); provided, however, that in each case, if a notice or other communication would be deemed to have been given in accordance with the foregoing at any time other than during the recipient's normal business hours on a Business Day for such recipient, such notice or other communication shall be deemed given on the next succeeding Business Day for such recipient.

Each Loan Party and each Secured Party acknowledges and agrees that the use of electronic transmission in general, and email in particular, is not necessarily secure and that there are risks associated with the use thereof, including risks of interception, disclosure and abuse, and each indicates it assumes and accepts such risks by hereby authorizing the use of electronic transmission.

The Agents and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of any Loan Party even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof.

Each Loan Party acknowledges, understands and agrees that: (a) some or all of the Lenders from time to time borrow funds from one or more lenders pursuant to loan agreements with notice provisions that are strictly enforced by such lenders; (b) the provisions in

this Loan Agreement and the other Loan Documents requiring delivery of notices and governing delivery of such notices (i) are of the essence of this Loan Agreement and such other Loan Documents, and without such provisions the Lenders would not enter into this Loan Agreement, (ii) require technical compliance in all respects, not just notice in fact, whether or not there is any prejudice to a Lender or any other Person, and (iii) will not be waived, amended or adjusted in any way in the absence of reasons deemed compelling by the Lenders in their sole and absolute discretion (compelling reasons shall not include the desire of a Loan Party to save money), which discretion shall be subject to no standard of reasonableness or review and shall be evidenced only by a formal written instrument (and not by an email or series of emails); and (c) no Loan Party will request any such waiver, amendment or adjustment, and each Loan Party shall instead strictly comply with every technical requirement of the notice provisions in this Loan Agreement and the other Loan Documents without complaint.

No Waiver; Cumulative Remedies

No failure to exercise and no delay in exercising, on the part of any Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Survival of Representations and Warranties

All representations and warranties made hereunder and in the other Loan Documents shall survive the execution and delivery of this Loan Agreement and the making of the Loans hereunder.

Payment of Expenses and Taxes; Indemnification

The Borrower and each other Loan Party agrees: (a) to pay or reimburse each Agent and each Lender for all their reasonable and documented out-of-pocket costs, fees and expenses incurred in connection with the development, negotiation, preparation, execution, delivery and administration of, and any amendment, supplement, or other modification to, and any waiver of any provision of, and any consent under, this Loan Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including without limitation such costs, fees and expenses related to due diligence, appraisal costs, lien searches and filing fees and such costs, fees and expenses in relation to any payoff letter or other termination agreement and associated lien releases, and including the reasonable fees, disbursements and other charges of one primary external counsel to the Agents and the Lenders taken as a whole, including reasonably necessary special counsel and local counsel in each applicable jurisdiction, and external tax professionals, accounting professionals, and other consultants and advisors, in all cases whether or not the Closing Date occurs and whether or not the transactions contemplated hereby are consummated; (b) to pay or reimburse each Agent and each Lender for all of their documented out-of-pocket costs, fees and expenses incurred thereby and by their Affiliates in connection with the enforcement or preservation of any rights under this Loan Agreement, the other Loan Documents and any other documents prepared in connection herewith or therewith, in connection with any workout, restructuring or negotiations in respect thereof, in connection with any action to protect, collect, sell, liquidate or dispose of any Collateral, and in connection with any litigation, arbitration or other contest, dispute, suit, or proceeding relating to any of the foregoing, including in each case the fees, disbursements and other charges of one external counsel to the Agents and the Lenders taken as a whole (and, if

reasonably necessary, (x) one local counsel in each relevant jurisdiction and (y) any special counsel), external tax professionals, accounting professionals, and other consultants and advisors of the Agents and the Lenders taken as a whole; (c) to pay, indemnify, and hold harmless each Agent and each Lender from any and all Other Taxes, if any, that may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Loan Agreement, the other Loan Documents and any such other documents; (d) to pay or reimburse each Agent and each Lender for all reasonable fees, costs and expenses incurred in exercising their rights under Section 8.02 and Section 8.16 and to pay and reimburse each Lender for all reasonable fees and expenses incurred in exercising its rights under Section 8.17; and (e) to pay, indemnify and hold harmless each Agent, each Lender, each other Secured Party, and the respective Related Parties of each of them, from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, and reasonable and documented out-of-pocket costs, expenses and disbursements of any kind or nature whatsoever, including reasonable and documented fees, disbursements and other charges of one primary external counsel, with respect to the negotiation, execution, delivery, enforcement, performance and administration of this Loan Agreement, the other Loan Documents and any such other documents, including any of the foregoing relating to any Environmental Claim that relates to any Loan Party or any property owned or leased by any Loan Party, the violation of, noncompliance with or liability under, any Environmental Law by any Loan Party or any property owned or leased by any Loan Party or any actual or alleged presence of Hazardous Materials on any property owned or leased by any Loan Party or resulting from any Loan Party in connection with the operations of any Loan Party, Subsidiary of any Loan Party or any of their Real Property (all the foregoing in this clause (e), collectively, the "Indemnified Liabilities"); provided, however, that the Loan Parties shall have no obligation under this clause (e) to either Agent, any Lender, any other Secured Party, or any Related Party of any of them, for Indemnified Liabilities arising from (A) gross negligence or willful misconduct of the party to be indemnified, as determined by a final, non-appealable order of a court of competent jurisdiction or (B) any claim resulting from one party to be indemnified against any other party to be indemnified and that does not involve an act or omission of Borrower, any Guarantor or any of their respective Subsidiaries or Affiliates or (C) a material breach of any obligations under any Loan Document by such indemnified party, as determined by a final, non-appealable order of a court of competent jurisdiction. The agreements in this Section 12.05 shall survive repayment of the Loans and all other amounts payable hereunder and the termination of this Loan Agreement. To the fullest extent permitted by Applicable Law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Agent, any Lender, any other Secured Party, and the Related Parties of each of them, on any theory of liability, for any general or consequential damages, or direct or indirect damages, in each case of any kind, and in each case whether special, reliance, punitive, compensatory, benefit of the bargain, "cover", expectancy, exemplary, incidental, "lost profits", or similar or other damages (including, but not limited to, damages resulting from loss of profits, revenue or business opportunity, business impact or anticipated savings) or multiples of damages, other than direct, foreseeable, actual out-of-pocket damages, arising out of, in connection with, or as a result of, this Loan Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Lender, no Agent, no other Secured Party, and no Related Party of any of them shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Loan Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, in the absence of the willful misconduct or gross negligence of such Person as determined by a final, non-appealable order of a court of competent jurisdiction.

Successors and Assigns; Participations and Assignments

This Loan Agreement shall inure to the benefit of the respective successors and permitted assigns of the parties hereto and of the Related Parties and other indemnified Persons hereunder and their respective successors and permitted assigns, and the obligations and liabilities assumed in this Loan Agreement by the parties hereto shall be binding upon their respective successors and permitted assignees, except that (i) except as permitted under Section 9.03, no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender, and any attempted assignment or transfer by any Loan Party 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 12.06, and any attempted assignment or transfer by any Lender not in accordance with this Section 12.06 shall be null and void. Nothing in this Loan 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 (c) of this Section 12.06) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Lenders and the other Secured Parties) any legal or equitable right, remedy or claim under or by reason of this Loan Agreement. Notwithstanding anything to the contrary herein, (a) any Lender shall be permitted to pledge or grant a security interest in all or any portion of such Lender's rights hereunder including, but not limited to, any Loans (without the consent of, or notice to or any other action by, any other party hereto) to secure the obligations of such Lender or any of its Affiliates to any Person providing any loan, letter of credit or other extension of credit to or for the account of such Lender or any of its Affiliates and (b) the Agents shall be permitted to pledge or grant a security interest in all or any portion of their respective rights hereunder or under the other Loan Documents, including, but not limited to, rights to payment (without the consent of, or notice to or any other action by, any other party hereto), to secure the obligations of such Agent or any of its Affiliates to any Person providing any loan, letter of credit or other extension of credit to or for the account of such Agent or any of its Affiliates.

(i) Subject to the conditions set forth in Section 12.06(b)(ii) below, any Lender may assign to one or more assignees (other than to any natural person, any Loan Party or to any Affiliate of any Loan Party, or any Person that is a Disqualified Institution) all or a portion of its rights and obligations under this Loan Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

the Borrower, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that (1) no consent of the Borrower shall be required for an assignment to a Lender, to an Affiliate of a Lender, to an Approved Fund or, if a Default or Event of Default has occurred and is continuing, to any other assignee and (2) the Borrower shall be deemed to have consented to any such assignment (and shall not be a party to or be required to sign any Assignment and Acceptance related thereto) unless it objects thereto by written notice delivered to the Administrative Agent within ten (10) Business Days after having received notice thereof; and

the Administrative Agent, which consent shall not be unreasonably withheld, conditioned, delayed or burdened; provided, that no consent of the Administrative Agent shall be required for an assignment to a Lender, to an Affiliate of a Lender, or to an Approved Fund.

Assignments by Lenders shall be subject to the following additional conditions:

except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, or an assignment of the entire remaining

amount of the assigning Lender's Commitments or Loans, the amount of the (i) Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is recorded in the Register by the Administrative Agent) shall not be less than $500,000, unless each of the Borrower and the Administrative Agent otherwise consent, which consent, in each case, shall not be unreasonably withheld, delayed, conditioned or burdened; provided, however, that no such consent of the Borrower shall be required if a Default or Event of Default has occurred and is continuing; and provided, further, that contemporaneous assignments to a single assignee made by affiliated Lenders or related Approved Funds, and contemporaneous assignments by a single assignor to affiliated Lenders or related Approved Funds, shall in each case be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Loan Agreement as to the Loans or Commitments so assigned; provided, that this paragraph shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect its Commitments or Loans;

the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of $3,500, a completed Administrative Questionnaire and all required "know your customer" documentation, documentation and information related to anti-money laundering rules and regulations, including the USA Patriot Act, the Beneficial Ownership Regulation and Anti-Terrorism Laws, including an IRS Form W-9 and all applicable tax forms; provided, that only one such fee shall be payable in connection with simultaneous assignments to two or more Approved Funds;

no assignments may be made to any natural person, any Loan Party, any Subsidiary of any Loan Party, or any Affiliate of any of the foregoing Persons, and any such assignment shall be null and void *ab initio*; and

absent the written consent of the Borrower (which consent may be given or withheld at the Borrower's sole discretion), no assignment or participation may be made to any Person that was a Disqualified Institution as of the applicable Trade Date (and any such attempted assignment or participation without the Borrower's consent shall be null and void). With respect to any assignee that becomes a Disqualified Institution after the Trade Date applicable to its assignment, (i) such assignee shall not retroactively be disqualified from having become a Lender pursuant to such assignment and (ii) such assignee will become a Disqualified Institution in accordance with the definition thereof notwithstanding the consummation of such assignment and the execution by the Borrower of an Assignment and Acceptance with respect to such assignee. Notwithstanding the foregoing, any assignment to an assignee that is a Disqualified Institution shall not be void, but the provisions of Section 12.06(e) shall apply

Subject to acceptance and recording thereof pursuant to Section 12.06(b)(v), from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of

a Lender under this Loan Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Loan Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Loan Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.06, 2.07, 4.04 and 12.05 to the extent of any amounts owed to such Lender under any of such provisions). Any assignment or transfer by a Lender of rights or obligations under this Loan Agreement that does not comply with this Section 12.06 shall be treated for purposes of this Loan Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 12.06(c).

The Administrative Agent, acting solely as an agent of the Borrower for tax purposes and solely with respect the actions described in this Section 12.06(b)(iv), shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The Borrower hereby agrees that the Administrative Agent and its Related Parties shall be indemnified in accordance with this Loan Agreement in connection with servicing in such capacity. The Register shall contain the name and address of each Lender and the lending office through which each Lender acts under this Loan Agreement. The entries in the Register shall be conclusive absent manifest error, and the Loan Parties, the Agents 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 Loan Agreement, notwithstanding notice to the contrary. The Register, as in effect at the close of business on the preceding Business Day, shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time on any Business Day upon reasonable prior written notice; provided, that no Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the Register other than information with respect to such Lender unless otherwise agreed by the Administrative Agent in its sole discretion. This Section 12.06(b)(iv) shall be construed such that the Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code.

Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee (other than any natural person, any Loan Party, any Affiliate of any Loan Party or any Person that on such date of receipt is a Disqualified Institution), any written consent to such assignment required by Section 12.06(b)(i), receipt by the Administrative Agent of the processing and recordation fee of $3,500, all requested "know your customer" documents, to the extent requested by the Administrative Agent a duly completed Administrative Questionnaire and all other information and documents requested by the Administrative Agent in accordance with Section 12.06(b)(ii)(C), the Administrative Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective for purposes of this Loan Agreement unless and until it has been recorded in the Register as provided in this paragraph.

In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative

Agent, the applicable *pro rata* share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent and each Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full *pro rata* share of all Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Loan Agreement until such compliance occurs.

The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

(i) Any Lender may, without the consent of the Borrower or the Agents, sell participations to one or more banks or other entities other than to any natural person, any Loan Party or to any Affiliate of any Loan Party, or any Person that is a Disqualified Institution) (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Loan Agreement (including all or a portion of its Commitments and the Loans owing to it); provided, that (A) such Lender's obligations under this Loan Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Loan Agreement. 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 Loan Agreement and to approve any amendment, modification or waiver of any provision of this Loan Agreement or any other Loan Document; 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 described in Sections 12.01(b)(i), 12.01(b)(ii), 12.01(b)(iii) or 12.01(b)(iv). Subject to Section 12.06(c)(ii), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.06, 2.07 and 4.04 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.06(b). To the extent permitted by Applicable Law, each Participant also shall be entitled to the benefits of Section 12.09(b) as if it were a Lender; provided, that such Participant agrees to be subject to Section 12.09(a) as if it were a Lender.

A Participant shall not be entitled to receive any greater payment under Sections 2.06, 2.07 or 4.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. The Borrower agrees that each Participant shall be entitled to the benefits of Section 4.04 so long as the documentation required by Section 4.04(f) is delivered by the participant to the participating Lender.

Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain at one of its offices in the United States 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 such Lender's

Loans or other obligations under the Loan Documents (the "Participant Register"). The entries in each Participant Register shall be conclusive absent manifest error, and the applicable Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Loan Agreement notwithstanding any notice to the contrary. 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 Administrative Agent shall have no responsibility for maintaining any Participant Register, and any notices or other documents required to be delivered by the Loan Parties shall be deemed to be delivered to a Participant upon actual delivery to the Lender that sold the participation to such Participant.

With respect to any participant that becomes a Disqualified Institution after the Trade Date applicable to its participation, such participant shall not retroactively be disqualified from having become a participant pursuant to the applicable participation agreement. Notwithstanding the foregoing, any participation to a participant that becomes an Disqualified Institution shall be subject to the provisions of Section 12.06(e) below

Nothing herein is intended to prevent, impair, limit or otherwise restrict the ability of a Lender to collaterally assign or pledge all or any portion of its interests in the Loans and the other rights and benefits under the Loan Documents to an unaffiliated third party lender of such Lender (each such Person, a "Collateral Assignee"); provided that unless and until the Borrower receives notification from a Collateral Assignee of such assignment directing payments to be made to such Collateral Assignee, any payment made by the Borrower for the benefit of such Lender in accordance with the terms of the Loan Documents shall satisfy the Borrower's obligations thereunder to the extent of such payment. Any such Collateral Assignee, upon foreclosure of its security interests in the Loans pursuant to the terms of such assignment and in accordance with Applicable Law, shall succeed to all the interests of or shall be deemed to be a Lender, with all the rights and benefits afforded thereby, and such transfer shall not be deemed to be a transfer for purposes of and otherwise subject to the provisions of this Section 12.06. Notwithstanding the foregoing, each Lender shall remain responsible for all obligations and liabilities arising hereunder or under any other Loan Document, and, except as otherwise expressly set forth in any applicable pledge or assignment, nothing herein is intended or shall be construed to impose any obligations upon or constitute an assumption by a Collateral Assignee thereof.

If any assignment is made to any Disqualified Institution without the Borrower's prior consent, or if any Lender becomes a Disqualified Institution after the Trade Date of the applicable assignment to such Lender, the Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) terminate the Commitment of such Disqualified Institution and repay all obligations of the Borrower owing to such Disqualified Institution in connection with such Commitment and/or (B) require such Disqualified Institution to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 12.06), all of its interest, rights and obligations under this Loan Agreement and the other Loan Documents to a Person (other than to any natural person, any Loan Party or to any Affiliate of any Loan Party, or any Person that is a Disqualified Institution) that shall assume such obligations at a purchase price equal to the principal amount thereof plus accrued interest, accrued fees and all other amounts payable to such Disqualified Institution hereunder and under the other Loan Documents; provided that (i)

the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 12.06(b)(ii)(C) above and (ii) such assignment does not conflict with applicable laws.

Notwithstanding anything to the contrary contained in this Loan Agreement, (i) Disqualified Institutions that are either Lenders or participants of Lenders will not (A) have any inspection rights or the right to receive information, reports or other materials provided to Lenders by the Borrower, the other Loan Parties, the Administrative Agent or any other Lender, (B) attend or participate in meetings attended by the Lenders and the Administrative Agent or (C) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (ii)(A) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Loan Agreement or any other Loan Document, each Disqualified Institution (whether a direct Lender or a participant) will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (B) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to Bankruptcy Code or any other debtor relief laws ("Plan of Reorganization"), each Disqualified Institution (whether a direct Lender or a participant) hereby agrees (1) not to vote on such Plan of Reorganization, (2) if such Disqualified Institution does vote on such Plan of Reorganization notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code, and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Plan of Reorganization in accordance with Section 1126(c) of the Bankruptcy Code and (3) not to contest any request by any party for a determination by the Bankruptcy Court effectuating the foregoing clause (2).

Mitigation Obligations and Replacements of Lenders under Certain Circumstances

Designation of a Different Lending Office. If any Lender requests compensation under Section 2.06, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 4.04 then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.06 or 4.04, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

The Administrative Agent, at the Borrower's sole cost and expense, shall be permitted to replace any Lender or any Participant that (i) requests reimbursement for amounts owing pursuant to Section 2.06, Section 4.04 or Section 12.07(a) if such Lender has declined or is unable to designate a different lending office in accordance with Section 12.07(a), (ii) is affected in the manner described in Section 2.06(a)(iii) and as a result thereof any of the actions described in such Section 2.06(a)(iii) is required to be taken or (iii) is a Defaulting Lender; provided, that (A) such replacement does not conflict with any Applicable Law, (B) no Event of Default shall have occurred and be continuing at the time of such replacement, (C) all Loans and other amounts (including any applicable Prepayment Premium and fees, but excluding any disputed amounts) owing to such replaced Lender pursuant to this Loan Agreement shall be paid or purchased at par, (D) the replacement bank or institution (if not already a Lender), and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, and the withholding of consent by the Administrative Agent to any Loan Party, any Subsidiary of any Loan Party or any Affiliate of any Loan Party becoming a

replacement Lender shall be deemed to be reasonable and not unreasonable, (E) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 12.06 (except that such replaced Lender shall not be obligated to pay any processing and recordation fee required pursuant thereto), (F) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, any Agent or any other Lender shall have against the replaced Lender, and (G) in the case of any such assignment resulting from a claim for compensation under Section 2.06 or payments required to be made pursuant to Section 4.04, such assignment will result in a reduction in such compensation or payments thereafter. A Lender shall not be required to make any such assignment or delegation if prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

If any Lender (a "Non-Consenting Lender") has failed to consent to a proposed amendment, waiver, discharge or termination, which pursuant to the terms of Section 12.01 requires the consent of all Lenders or all of the Lenders affected thereby and with respect to which the Required Lenders shall have granted their consent, then, provided that no Event of Default then exists, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent), at their own cost and expense, to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans and Commitments to one or more assignees reasonably acceptable to the Administrative Agent, provided, that: (i) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full to such Non-Consenting Lender concurrently with such assignment, including any Prepayment Premium, and (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon. In connection with any such assignment, the Borrower, the Agents, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 12.06 (except that such Non-Consenting Lender shall not be obligated to pay any processing and recordation fee required pursuant thereto).

[Reserved]

Adjustments; Set-Off

If any Lender at any time receives any payment of all or part of its Loans, interest thereon or Prepayment Premium in respect thereof, or receives any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 10.01(k), or otherwise), in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's Loans, interest thereon or Prepayment Premium in respect thereof, such recipient Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's Loans, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such recipient Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the other Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such recipient Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. The foregoing provisions of this Section 12.09 shall not apply to payments made and applied in accordance with the terms of this Loan Agreement and the other Loan Documents.

Upon the occurrence and during the continuance of an Event of Default, to the extent consented to by the Administrative Agent, in addition to any rights and remedies of the Lenders provided by law, each Lender shall have the right, without prior notice to the Borrower or any other Loan Party, any such notice being expressly waived by the Loan Parties to the extent permitted by Applicable Law, upon any amount becoming due and payable by the

Borrower hereunder (whether at the stated maturity, by acceleration or otherwise), to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final, but excluding any Excluded Deposit Accounts), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch or agency thereof to or for the credit or the account of the Borrower, as the case may be. Each Lender agrees promptly to notify the Borrower and the Agents after any such set-off and application made by such Lender; provided, that the failure to give such notice shall not affect the validity of such set-off and application.

Effectiveness of Facsimile Documents and Signatures

Loan Documents may be transmitted and signed and delivered by facsimile or other electronic means. The effectiveness of any such documents and signatures shall have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders.

Counterparts

Any number of counterparts of this Loan Agreement and the other Loan Documents, including facsimiles and other electronic copies (including .pdf), may be executed by the parties hereto. Each such counterpart shall be, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same agreement.

Severability

All provisions of this Loan Agreement are severable, and the unenforceability or invalidity of any of the provisions of this Loan Agreement shall not affect the validity or enforceability of the remaining provisions of this Loan Agreement. Should any part of this Loan Agreement be held invalid or unenforceable in any jurisdiction, the invalid or unenforceable portion or portions shall be removed (and no more) only in that jurisdiction, and the remainder shall be enforced as fully as possible (removing the minimum amount possible) in that jurisdiction. In lieu of such invalid or unenforceable provision, the parties hereto will negotiate in good faith to add as a part of this Loan Agreement a legal, valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

Integration

This Loan Agreement and the other Loan Documents contain the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede all prior negotiations, agreements and understandings with respect thereto, both written and oral. This Loan Agreement may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten or oral agreements between the parties. By executing and delivering this Loan Agreement, each Loan Party hereby fully and irrevocably releases and agrees not to assert in any manner any and all claims which such Loan Party may have at law or in equity in relation to all prior written and oral discussions and understandings relating to this Loan Agreement, the other Loan Documents, the subject matter hereof and thereof, and the Transactions. When this Loan Agreement or any other Loan Document refers to a party's "sole discretion", such phrase means that party's sole and absolute discretion as to process and result, which shall be final for all purposes hereunder, to be exercised (to the fullest extent the law permits) for any reason, subject to no standard of reasonableness or review and part of no claim before any court, arbitrator or other tribunal or forum or otherwise.

GOVERNING LAW

THIS LOAN AGREEMENT, THE OTHER LOAN DOCUMENTS (EXCEPT AS MAY OTHERWISE BE PROVIDED THEREIN), AND THE VALIDITY, INTERPRETATION, CONSTRUCTION, AND PERFORMANCE HEREOF AND THEREOF SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND ANY CLAIM BY ANY PARTY HERETO AGAINST ANY OTHER PARTY HERETO (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) SHALL BE DETERMINED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK FOR CONTRACTS MADE AND TO BE PERFORMED WHOLLY WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS REQUIRING APPLICATION OF THE LAW OF ANY OTHER JURISDICTION.

Waiver of Certain Rights

Each Loan Party irrevocably and unconditionally waives, to the maximum extent not prohibited by Applicable Law, all rights of rescission, setoff, counterclaims, and other defenses in connection with the repayment of the Obligations.

Acknowledgments

Each Loan Party hereby acknowledges that:

it has been advised by counsel of its choice in the negotiation, execution and delivery of this Loan Agreement and the other Loan Documents, such counsel has reviewed this Loan Agreement and the other Loan Documents, this Loan Agreement and the other Loan Documents (including, without limitation, Section 12.14, Section 12.15 and Article XIII hereof) are the result of such advice and review, and neither this Loan Agreement nor any other Loan Document shall be construed against an Agent or any Lender merely because of such Agent's or such Lender's involvement in the preparation of any such document;

neither any Agent nor any Lender has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Loan Agreement or any of the other Loan Documents, and the relationship between any Agent and any Lender, on one hand, and each Loan Party, on the other hand, in connection herewith or therewith is solely that of debtor and creditor;

no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Agents and the Lenders or among the Loan Parties and the Agents and the Lenders; and

this Loan Agreement does not give rise now or in the future to an agency or partnership relationship between any Loan Party on the one hand and any Agent, any Lender or any of their respective Affiliates on the other hand.

[Reserved]

Confidentiality

Each Agent and each Lender shall hold all non-public information relating to any Loan Party or any Subsidiary of any Loan Party obtained pursuant to the requirements of this Loan Agreement ("Confidential Information") confidential in accordance with its customary

procedure for handling confidential information of this nature and, in the case of a Lender that is a bank, in accordance with safe and sound banking practices; provided, however, that in any event any Agent or Lender may disclose Confidential Information:

as such Person reasonably believes is required by Law (including, without limitation, SEC rules and regulations) (in which case, such Person agrees to inform the Borrower promptly thereof prior to such disclosure, unless such Person is prohibited by Applicable Law from so informing the Borrower, or except in connection with any request as part of any audit or regulatory examination);

pursuant to legal process or as is otherwise required or requested by any court, securities exchange, or any other judicial, governmental, supervisory or regulatory board or agency, or representative thereof (including, without limitation, the SEC) (in which case, such Person agrees to inform the Borrower promptly thereof prior to such disclosure, unless such Person is prohibited by Applicable Law from so informing the Borrower, or except in connection with any request as part of any audit or regulatory examination);

in connection with, and following, the enforcement of any rights or exercise of any remedies by any Agent or Lender under this Loan Agreement or any other Loan Document, or any action or proceeding relating to this Loan Agreement or any other Loan Document;

to the extent necessary or customary for inclusion in league table measurements;

to such Agent's or Lender's Affiliates, and to such Agent's, Lender's and Affiliates' directors, officers, employees, agents, attorneys, consultants, accountants and other professional advisors, auditors, and financing sources, in each case, on a "need to know" basis solely in connection with the Transactions (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) and the Administrative Agent, the Collateral Agent and the Lenders shall be responsible for the compliance with this paragraph by its Related Parties; and

in connection with:

the establishment of any special purpose funding vehicle with respect to the Loans,

any prospective assignment of, or participation in, its rights and obligations pursuant to Section 12.06, to prospective assignees or Participants, as applicable, provided that such prospective assignees or Participants agree to treat such information as confidential substantially in accordance with the terms of this Section 12.18 as if such prospective assignees or Participants were Agents or Lenders hereunder; and

any actual or proposed credit facility for loans, letters of credit or other extensions of credit to or for the account of such Agent or Lender or any of its Affiliates, to any Person providing or proposing to provide such loan, letter of credit or other extension of credit or any agent, trustee or representative of such Person;

to any rating agency; and

to any other Person with the consent of the Borrower.

Notwithstanding the foregoing, (A) each of the Agents, the Lenders and any Affiliate thereof is hereby expressly permitted by the Loan Parties to refer to any Loan Party and any of their respective Subsidiaries in connection with any promotion or marketing undertaken by such Agent, Lender or Affiliate and, for such purpose, with Borrower's consent in connection with any public marketing, such Agent, Lender or Affiliate may utilize any trade name, trademark, logo or other distinctive symbol associated with such Loan Party or such Subsidiary or any of their businesses in a reasonably customary manner and (B) no Agent or Lender shall have any obligation to keep information confidential if such information: (i) is or becomes public or known to participants in the Borrower's industry from a source other than an Agent, a Lender or an Agent's or a Lender's directors, officers, employees, agents, attorneys, accountants or other professional advisors or auditors; (ii) is, was or becomes known on a non-confidential basis to or discovered by an Agent, Lenders or any of their legal or financial advisors independently from communications by or on behalf of any Loan Party, provided that the source of such information was not actually known by the disclosing Agent, Lender or advisor to be bound by a confidentiality agreement with (or subject to any other contractual, legal or fiduciary obligation of confidentiality to) the relevant Loan Party; or (iii) is independently developed by an Agent or a Lender without use of such confidential information.

Press Releases, etc.

Each Loan Party will not, and will not permit any of its Affiliates or its or its Affiliates' respective officers, directors, shareholders or employees to, directly or indirectly, (i) publish or permit to be published any press release or other similar public disclosure or announcements (including any marketing materials) regarding this Loan Agreement or the other Loan Documents or the transactions contemplated thereby (other than, for the avoidance of doubt, the PIPE Transactions), without the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, or (ii) publish or permit to be published any Agent's or Lender's name or logo, or otherwise refer to any Agent or Lender or any of its Affiliates, in connection with this Loan Agreement or the other Loan Documents or the transactions contemplated thereby (other than, for the avoidance of doubt, the PIPE Transactions), without the prior written consent of such Agent or Lender, as applicable.

Releases of Guaranties and Liens

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Collateral Agent is hereby irrevocably authorized by each Secured Party (without requirement of notice to or consent of any Secured Party except as expressly required by Section 12.01), at the request of the Borrower, to release the following:

any Subsidiary of Borrower from its guaranty of any Obligation if all of the Capital Stock of such Subsidiary owned by any Loan Party are sold or transferred to a non-Loan Party in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent in accordance with this Loan Agreement), to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Obligations pursuant to terms of this Loan Agreement or any other Loan Document; and

any Lien held by the Collateral Agent for the benefit of the Secured Parties against (x) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Loan Party to a non-Loan Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent in accordance with this Loan Agreement), to the extent all Liens required to be granted in such Collateral pursuant to terms of this Loan Agreement or any other Loan Document after giving effect to such transaction have been granted and (ii) all of the Collateral and all Loan Parties at such

time as the Loans and the other Obligations (other than Unasserted Contingent Obligations) shall have been paid in full and all Commitments have been terminated (the "Redemption"); *provided*, that, to the extent requested by the any Agent, the Loan Parties shall provide a liability release from such Loan Parties in form and substance acceptable to such Agent.

Upon request by the Collateral Agent at any time, (x) the Required Lenders will confirm in writing the Collateral Agent's authority to release its interest in particular types or items of property, or to release any guarantee obligations pursuant to this Section 12.20 or Section 8.14 of the Guaranty and Security Agreement and (y) the Borrower shall execute and deliver a certificate of an Authorized Officer certifying that the applicable underlying transaction is permitted under the Loan Documents. In each case as specified in this Section 12.20 or Section 8.14 of the Guaranty and Security Agreement, the Collateral Agent will (and each Lender irrevocably authorizes the Collateral Agent to), at the Borrower's sole cost and expense, execute and deliver to the applicable Loan Party such documents and filings as such Loan Party may reasonably request to evidence a Redemption (including, without limitation, any pay-off letter, lien terminations and other applicable documents and deliverables) and the release of such item of Collateral or guarantee obligation from the assignment and security interest granted under the Security Documents, in each case in accordance with the terms of the Loan Documents and this Section 12.20 or Section 8.14 of the Guaranty and Security Agreement.

USA Patriot Act

Each Lender hereby notifies each Loan Party that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act") and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the Patriot Act and the Beneficial Ownership Regulation. Each Loan Party agrees to provide all such information to the Lenders upon request by any Agent at any time, whether with respect to any Person who is a Loan Party on the date hereof, on the Closing Date or who becomes a Loan Party thereafter.

No Fiduciary Duty

Each Loan Party, on behalf of itself and its Subsidiaries, agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Loan Parties, their respective Subsidiaries and Affiliates, on the one hand, and the Agents, the Lenders, the other Secured Parties, and all of their respective Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Agents the Lenders or their respective Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications.

Reliance on Certificates

Notwithstanding anything to the contrary herein, the Secured Parties shall be entitled to rely and act upon any certificate, notice or other document delivered by or on behalf of any Person purporting to be an Authorized Officer of a Loan Party, and shall have no duty to inquire as to the actual incumbency or authority of such Person.

No Waiver

A Secured Party's failure to insist at any time upon strict compliance with this Loan Agreement or with any of the terms of this Loan Agreement or any continued course of such conduct on its part will not constitute or be considered a waiver by such Secured Party of any of its rights or privileges. A waiver or consent, express or implied, of or to any breach or default by any party in the performance by that party of its obligations with respect to this Loan Agreement is not a waiver or consent of or to any other breach or default in the performance by that party of the same or any other obligations of that party.

The Borrower as the Loan Parties' Representative

Each Loan Party (other than the Borrower) hereby irrevocably appoints the Borrower as the borrowing agent and attorney-in-fact for all Loan Parties, which appointment is coupled with an interest and shall remain in full force and effect unless and until the Administrative Agent (i) in its sole discretion shall have consented in writing to the revocation of such appointment and (ii) received prior written notice signed by the Loan Parties that such appointment has been revoked and that another Loan Party has been appointed. Each Loan Party hereby irrevocably appoints and authorizes the Borrower (a) to provide the Agents and the Lenders with all notices with respect to all Loans and other extensions of credit obtained for the benefit of the Borrower and all other notices and instructions under this Loan Agreement and the other Loan Documents, (b) amend, supplement or otherwise modify any term or condition of this Loan Agreement and the other Loan Documents in accordance with Section 12.01(b) without any requirement that such Loan Party also sign any documents or instruments to effectuate any such amendment, supplement or waiver, and (c) to take such action as the Borrower deems appropriate on such Loan Party's behalf to exercise such powers as are reasonably incidental thereto to carry out the purposes of this Loan Agreement and the other Loan Documents. Each Loan Party acknowledges that the handling of this Loan Agreement, the other Loan Documents and the Collateral in a combined fashion, as more fully set forth herein and in the other Loan Documents, is done solely as an accommodation to the Loan Parties in order to utilize the collective borrowing powers of the Loan Parties in the most efficient and economical manner and at their request, and that no Agent or Lender shall incur liability to any Loan Party as a result thereof. Each Loan Party expects to derive substantial benefit, directly or indirectly, from the handling of this Loan Agreement, the other Loan Documents and the Collateral in a combined fashion because the successful operation of each Loan Party is dependent on the continued successful performance of the integrated group. To induce the Agents and Lenders to do so, and in consideration thereof, each Loan Party hereby jointly and severally agrees to indemnify each Agent and each Lender against, and hold each Agent and each Lender harmless from, any and all liability, expense, loss or claim of damage or injury made against any Agent or Lender by any Loan Party or by any third party whosoever, arising from or incurred by reason of (x) the handling of this Loan Agreement, the other Loan Documents and the Collateral as provided herein, or (y) an Agent or a Lender relying on any instructions of the Borrower, except that the Loan Parties will have no liability to any Agent or Lender pursuant to this Section 12.25 with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent or such Lender, as applicable.

Funding Losses.

The Borrower agrees to reimburse each Lender and to hold each Lender harmless from any actual and documented loss or expense (but excluding lost profits) which such Lender may sustain or incur as a direct consequence of:

the failure of the Borrower to make any payment or mandatory prepayment of principal of any LIBOR Rate Loan as and when due hereunder (including payments made after any acceleration thereof);

the failure of the Borrower to borrow a Loan after the Borrower has given (or is deemed to have given) a Borrowing Notice;

the failure of the Borrower to make any prepayment after the Borrower has given a notice in accordance with Section 4.01(a)(i); or

the prepayment (including pursuant to Section 4.02) of a LIBOR Rate Loan on a day which is not the last day of the Interest Period with respect thereto;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained. Solely for purposes of calculating amounts payable by the Borrower to the Lenders under this Section 12.26 and under Section 2.06(a)(ii): each LIBOR Rate Loan that is made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR Rate used in determining the interest rate for such LIBOR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan is in fact so funded. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 12.26 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

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 Lender that is an 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:

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 Lender that is an Affected Financial Institution; and

the effects of any Bail-in Action on any such liability, including, if applicable:

a reduction in full or in part or cancellation of any such liability;

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 Loan Agreement or any other Loan Document; or

the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any the applicable Resolution Authority.

Keepwell

Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under the Guaranty and Security Agreement in respect of Swap Obligations under any Secured Hedging Agreement (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 12.28 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 12.28, or otherwise under the Guaranty and Security Agreement, voidable under applicable Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 12.28 shall remain in full force and effect until the guarantees in respect of Swap Obligations under each Secured Hedging Agreement have been discharged, or otherwise released or terminated in accordance with the terms of this Loan Agreement. Each Qualified ECP Guarantor intends that this Section 12.28 constitute, and this Section 12.28 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

Acknowledgement Regarding Any Supported QFCs

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Hedging Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States.

In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States.

Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

JURISDICTION; VENUE, SERVICE OF PROCESS; JURY TRIAL WAIVER

JURISDICTION

EACH LOAN PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE COURT OR FEDERAL COURT OF THE UNITED STATES OF AMERICA SITTING IN THE BOROUGH OF MANHATTAN IN THE STATE OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE LOANS, THIS LOAN AGREEMENT, THE NOTES, OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NOTHING IN THIS LOAN AGREEMENT SHALL AFFECT ANY RIGHT THAT THE AGENTS AND LENDERS MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THE LOANS, THIS LOAN AGREEMENT, THE NOTES, OR ANY OTHER LOAN DOCUMENT AGAINST THE LOAN PARTIES OR THEIR PROPERTIES IN THE COURTS OF ANY JURISDICTION.

VENUE

EACH LOAN PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE LOANS, THIS LOAN AGREEMENT, THE NOTES, OR ANY OTHER LOAN DOCUMENT IN ANY STATE OR FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN IN THE STATE OF NEW YORK. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SERVICE OF PROCESS

EACH PARTY TO THIS LOAN AGREEMENT IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER AND AT THE ADDRESSES PROVIDED FOR NOTICES IN SECTION 12.02 BY MAIL. NOTHING IN THIS LOAN AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS LOAN AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

JURY TRIAL WAIVER

EACH LOAN PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THE LOANS, THIS LOAN

AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT, OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THE LOANS, THIS LOAN AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH LOAN PARTY ACKNOWLEDGES THAT IT HAD THE OPPORTUNITY TO REVIEW THIS JURY TRIAL WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHT TO A JURY TRIAL. THIS SECTION 13.04 IS A MATERIAL INDUCEMENT FOR THE AGENTS AND THE LENDERS GRANTING ANY FINANCIAL ACCOMMODATIONS TO THE LOAN PARTIES.

JUDICIAL FORECLOSURE AND OTHER ACTIONS

NO PROVISION OF, NOR THE EXERCISE OF ANY RIGHTS UNDER, SECTION 13.01 OR SECTION 13.02 SHALL LIMIT THE RIGHT OF ANY AGENT OR ANY OTHER SECURED PARTY TO (I) FORECLOSE AGAINST ANY REAL OR PERSONAL PROPERTY COLLATERAL THROUGH JUDICIAL FORECLOSURE, BY THE EXERCISE OF A POWER OF SALE UNDER A DEED OF TRUST, MORTGAGE OR OTHER SECURITY AGREEMENT OR INSTRUMENT, PURSUANT TO APPLICABLE PROVISIONS OF THE UCC, OR OTHERWISE PURSUANT TO APPLICABLE LAW, (II) EXERCISE SELF-HELP REMEDIES INCLUDING BUT NOT LIMITED TO SET-OFF AND REPOSSESSION, OR (III) REQUEST AND OBTAIN FROM A COURT HAVING JURISDICTION, ANY PROVISIONAL OR ANCILLARY REMEDIES AND RELIEF INCLUDING BUT NOT LIMITED TO INJUNCTIVE OR MANDATORY RELIEF OR THE APPOINTMENT OF A RECEIVER.

Termination. Notwithstanding anything to the contrary contained herein, if (x) the Closing Date has not occurred on or prior July 7, 2020 and (y) no Obligations are outstanding on July 8, 2020, this Loan Agreement, the Commitments hereunder and all other Loan Documents shall automatically terminate on July 8, 2020 (other than those provisions herein which by their express terms survive termination).

[*signatures begin on next page*]

(s) IN WITNESS WHEREOF, each of the parties hereto has duly executed and delivered this Loan Agreement as of the date first above written.

THE BORROWER:

MIMEDX GROUP, INC.

By: /s/ Peter M. Carlson
Name: Peter M. Carlson
Title: Chief Financial Officer

GUARANTORS:

MIMEDX TISSUE SERVICES, LLC

By: /s/ Timothy R. Wright
Name: Timothy R. Wright
Title: Chief Executive Officer

MIMEDX PROCESSING SERVICES, LLC

By: /s/ Timothy R. Wright
Name: Timothy R. Wright
Title: Chief Executive Officer

ADMINISTRATIVE AGENT AND COLLATERAL AGENT:

HAYFIN SERVICES LLP,

By: [***]
Name: [***]
Title: Authorized Signatory

LENDER:

[●],
as a Lender

By:_____
Name:
Title:

SCHEDULE 1.01

INITIAL TERM LOAN COMMITMENTS AND DDTL COMMITMENTS

Lenders	Initial Term Loan Commitment	Pro Rata Portion of Initial Term Loan Commitment	DDTL Commitment	Pro Rata Portion of DDTL Commitment
Hayfin DLF III Luxco 1 S.àr.l	[***]	[***]	[***]	[***]
Hayfin Sapphire IV Luxco SCA	[***]	[***]	[***]	[***]
Hayfin PT Luxco 2 S.àr.l	[***]	[***]	[***]	[***]
Infinity Holdco Private Debt II S.àr.l	[***]	[***]	[***]	[***]
Total	[***]	[***]	[***]	[***]

Document comparison by Workshare Compare on Monday, February 28, 2022 9:04:29 AM

Input:	
Document 1 ID	iManage://US-DIGITALFILE/US_ACTIVE/165335355/1
Description	#165335355v1<US_ACTIVE> - MiMedx - Credit Agreement (Execution Version)
Document 2 ID	iManage://US-DIGITALFILE/US_ACTIVE/165403183/1
Description	#165403183v1<US_ACTIVE> - FINAL - MiMedx - Exhibit A - Amended Credit Agreement (through Amen. No. 1)-98504045-v8
Rendering set	ReedSmith Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	113
Deletions	38
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	151

Exhibit 21.1

MiMedx Group, Inc.

List of Subsidiaries

Company	**Jurisdiction of Organization**
MiMedx Tissue Services, LLC	Georgia
MiMedx Processing Services, LLC	Florida

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-259103 on Form S-3 and Registration Statement Nos. 333-251434, 333-211900, 333-199841, 333-189784, 333-183991 and 333-153255 on Form S-8 of our reports dated February 28, 2022, relating to the financial statements of MiMedx Group, Inc. and subsidiaries and the effectiveness of MiMedx Group, Inc. and subsidiaries' internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2021.

/s/ Deloitte & Touche LLP

Atlanta, Georgia

February 28, 2022

Consent of Independent Registered Public Accounting Firm

MiMedx Group, Inc.
Marietta, GA

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-259103) and Form S-8 (Nos. 333-153255, 333-183991, 333-189784, 333-199841, 333-211900 and 333-251434) of MiMedx Group, Inc. of our reports dated March 8, 2021, relating to the consolidated financial statements and schedule which appear in this Form 10-K.

/s/ BDO USA, LLP
Atlanta, Georgia

February XX, 2022

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULES 13a-14(A) AND 15d-14(A)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, Timothy R. Wright, certify that:

1. I have reviewed this Annual Report on Form 10-K of MiMedx Group, Inc. (the "Report");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

(d) Disclosed in this Report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2022

/s/ Timothy R. Wright
Timothy R. Wright
Chief Executive Officer

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULES 13a-14(A) AND 15d-14(A)
OF THE SECURITIES EXCHANGE ACT OF 1934

I, Peter M. Carlson, certify that:

1. I have reviewed this Annual Report on Form 10-K of MiMedx Group, Inc. (the "Report");

2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and

(d) Disclosed in this Report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2022

/s/ Peter M. Carlson
Peter M. Carlson
Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

The undersigned Timothy R. Wright, the Chief Executive Officer of MiMedx Group, Inc. (the "Company"), has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company's Annual Report on Form 10-K for the period ending December 31, 2021 (the "Report"). Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned hereby certifies, to his knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 28, 2022

/s/ Timothy R. Wright
Timothy R. Wright
Chief Executive Officer

Exhibit 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350 AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

The undersigned Peter M. Carlson, the Chief Financial Officer of MiMedx Group, Inc. (the "Company"), has executed this certification in connection with the filing with the Securities and Exchange Commission of the Company's Annual Report on Form 10-K for the period ending December 31, 2021 (the "Report"). Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned hereby certifies, to his knowledge, that:

(1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 28, 2022

/s/ Peter M. Carlson
Peter M. Carlson
Chief Financial Officer