As filed with the U.S. Securities and Exchange Commission on March 30, 2021.

Registration No. 333-

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

FORM S-1
REGISTRATION STATEMENT
Under
The Securities Act of 1933

TREACE MEDICAL CONCEPTS, INC.
(Exact name of registrant as specified in its charter)

Delaware	3841	47-1052611
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

203 Fort Wade Rd., Suite 150
Ponte Vedra, Florida 32081
(904) 373-5940
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

John T. Treace
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(904) 373-5940
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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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. (Check one):

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 under Section 7(a)(2)(B) of the Securities Act. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Proposed maximum aggregate offering price(1)	Amount of registration fee(2)
Common Stock, $0.001 par value per share	$100,000,000	$10,910

(1) Estimated solely for the purpose of calculating the amount of the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended. Includes the aggregate offering price of additional shares that the underwriters have the option to purchase.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

Explanatory Note:

We presently have Class A common stock authorized, issued and outstanding. We also have Class B common stock authorized, but with none issued and outstanding. We refer to both our Class A common stock and Class B common stock as our common stock in this prospectus, as well as for financial reporting purposes and in the financial tables included in this prospectus, as more fully explained in Note 10 to our financial statements included elsewhere in this prospectus. Before the launch of the roadshow for this offering, we will file an amended and restated certificate of incorporation to eliminate the Class B common stock so that following the filing of such amended and restated certificate of incorporation, our only authorized, issued and outstanding stock will be our Class A common stock and our Series A convertible preferred stock.

Table of Contents

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is declared effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED MARCH 30, 2021

Shares

Common Stock

This is an initial public offering of shares of common stock by Treace Medical Concepts, Inc. We are offering shares of our common stock to be sold in the offering. The selling stockholders identified in this prospectus are offering an additional shares of our common stock. We will not receive any proceeds from the sale of the shares by the selling stockholders. The initial public offering price is expected to be between $ and $ per share.

Prior to this offering, there has been no public market for our common stock. We have applied to list our common stock on the Nasdaq Global Market under the symbol "TMCI."

We are an "emerging growth company" and a "smaller reporting company" as defined under the federal securities laws and, as such, have elected to comply with certain reduced requirements.

Investing in our common stock involves a high degree of risk. See "Risk Factors" beginning on page 16.

	Per Share	Total
Initial public offering price	$	$
Underwriting discounts and commissions(1)	$	$
Proceeds to Treace Medical Concepts, Inc., before expenses	$	$
Proceeds to the selling stockholders, before expenses	$	$

(1) See "Underwriting" for a description of the compensation payable to the underwriters.

We have granted the underwriters an option exercisable for 30 days after the date of this prospectus, to purchase, from time to time, in whole or in part, up to an aggregate of shares from us at the public offering price less underwriting discounts and commissions.

The underwriters expect to deliver the shares to purchasers on or about , 2021.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

J.P. Morgan **Morgan Stanley**

SVB Leerink **Stifel**

, 2021

TABLE OF CONTENTS

Through and including , 2021 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

We and the selling stockholders have not authorized anyone to provide any information or to make any representations other than those contained in this prospectus or in any free writing prospectuses we have prepared. We and the selling stockholders take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the securities offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. The information contained in this prospectus is accurate only as of the date.

For investors outside of the United States: we have not and the underwriters have not done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than the United States. Persons outside of the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside of the United States.

PROSPECTUS SUMMARY

This summary highlights selected information contained in greater detail elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read the entire prospectus, including the sections titled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the financial statements and related notes thereto included elsewhere in this prospectus. As used in this prospectus, references to "we," "our," "us," "the company" and "TMC" refer to Treace Medical Concepts, Inc.

Overview

We are a commercial-stage orthopaedic medical device company driving a paradigm shift in the surgical treatment of *Hallux Valgus* (commonly known as bunions). We have pioneered our proprietary Lapiplasty 3D Bunion Correction System – a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery. Although bunions are deformities typically caused by an unstable joint in the middle of the foot that leads to a three-dimensional (3D) misalignment in the foot's anatomical structure, the majority of traditional surgical approaches focus on correcting the deformity from a two-dimensional (2D) perspective and therefore fail to address the root cause of the disorder. To effectively restore the normal anatomy of bunion patients and improve clinical outcomes, we believe addressing the root cause of the bunion is critical and have developed the Lapiplasty System to correct the deformity across all three anatomic dimensions. Our mission is to be the leader in the surgical treatment of bunions by establishing the Lapiplasty System as the standard of care.

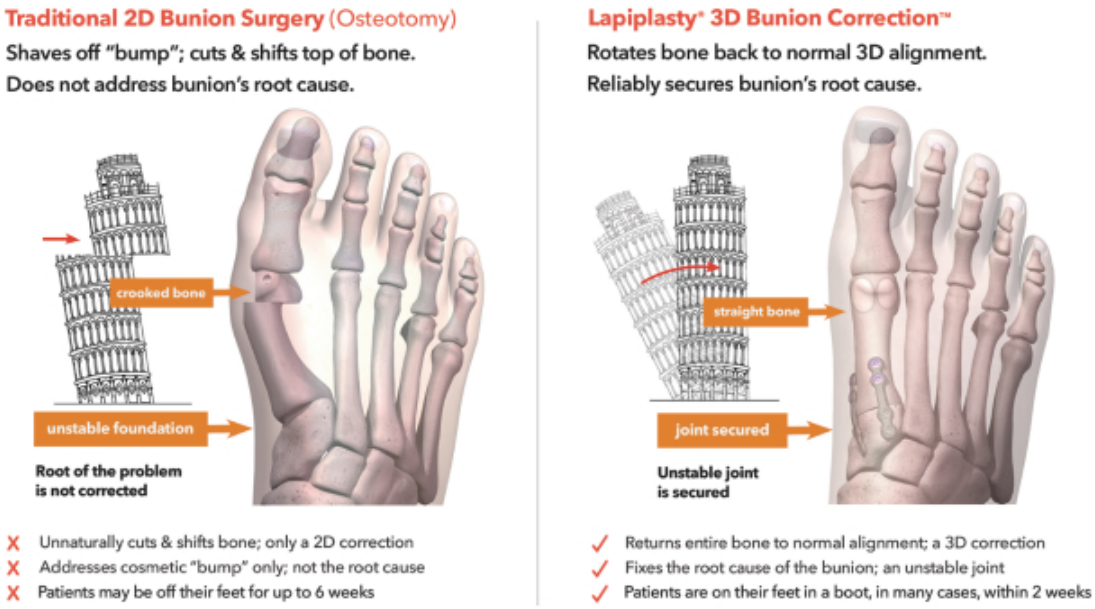
A bunion is a painful, disfiguring deformity characterized by a deviated position of the great toe, and easily identified visually by the "bump" at its base. Bunions affect approximately 65 million Americans, and generally increase in prevalence and severity over time. Nearly 25% of adults between the ages of 18 and 65, and over 35% of people over the age of 65, have bunions. Approximately 4.4 million patients in the United States seek medical attention for bunions annually; of these patients, an estimated 1.1 million are deemed surgical candidates, which represents a total annual addressable market opportunity of more than $5 billion. This large patient population often suffers from symptoms that worsen over time, including severe and debilitating pain, emotional burden and limited mobility, and is susceptible to further degeneration and common concomitant pathologies. Despite the significant limitations of traditional surgical treatment approaches, approximately 450,000 surgical bunion procedures are performed in the United States every year.

The goal of bunion surgery is to restore the normal anatomy of patients in order to return natural function and appearance in the foot and relieve pain. A common misconception is that a bunion is simply an overgrowth of bone that can be shaved off. In reality, a bunion is a complex 3D deformity caused by an unstable joint in the middle of the foot (which we may refer to as the "root cause") which causes the metatarsal bone in the foot to rotate out of alignment in all three anatomic dimensions. A recent study indicates that 87% of bunions have a 3D rotational issue in addition to horizontal and vertical misalignments of the metatarsal bone. Traditional 2D approaches to bunion surgery, used in the majority of bunion surgical procedures, fail to correct this third "rotational" dimension of the bunion deformity, which has been reported to result in a 10 to 12 times increase in the chance of bunion recurrence as compared to 3D surgeries.

Historically, there have been two primary approaches to the surgical treatment of bunions, both of which fail to consistently meet patient needs and physician expectations. The first and most common approach is 2D Osteotomy surgery, which merely cuts and shifts the metatarsal bone in two dimensions, addressing the cosmetic bump rather than the root cause, which may result in high long-term recurrence rates (up to 78%) and low patient satisfaction with the procedure. The second approach, traditionally reserved for the most advanced and severe

bunion pathology is Lapidus Fusion *surgery, which fuses the unstable joint but requires a technically challenging correction through a "freehand" technique which often results in inconsistent outcomes and has been reported to involve a protracted period of recovery, including approximately 6 to 8 weeks of non-weight-bearing.*

We believe our proprietary Lapiplasty System, the first of its kind, is the leading system designed to consistently and reliably correct all three dimensions of the bunion deformity, address the root cause of the bunion deformity and allow rapid return to weight-bearing in a post-operative boot with low risk of recurrence. The Lapiplasty System combines our novel surgical approach, the Lapiplasty Procedure, with our procedural instrumentation and single-use implant kits. With help from our procedural instrumentation, the Lapiplasty Procedure is designed to rotate the entire metatarsal bone into normal anatomical position in all three dimensions, eliminating the bump and restoring normal anatomy. The unstable foundation in the foot is then secured with our titanium fixation plates and screws, allowing patients to get back on their feet quickly in a post-operative boot. The Lapiplasty Procedure can be performed in either hospital outpatient or ambulatory surgery center settings, and utilizes existing, well-established reimbursement codes. Since receiving 510(k) clearance for the Lapiplasty System in March 2015, more than 25,000 Lapiplasty procedures have been performed in the United States.



The safety, effectiveness and clinical advantages of the Lapiplasty System have been demonstrated in multiple post-market clinical outcome studies. This portfolio of studies is unique in the bunion correction field where comprehensive outcome studies are limited. Multiple peer-reviewed publications have demonstrated the ability of the Lapiplasty System to reproducibly correct all three dimensions of the deformity and allow the patient to quickly and safely return to weight-bearing in a post-operative boot while exhibiting a low rate of bunion recurrence (0.9% to 3.2% measured at 17 and 13 months, respectively).

We market and sell our products in the United States through a combination of a direct employee sales force and independent sales agents across 98 territories focused on driving adoption and supporting utilization of the Lapiplasty System among the approximately 7,400 surgical podiatrists and 2,600 orthopaedic surgeons with foot and ankle specializations in the United States. To improve clinical outcomes, we devote significant resources to training and educating physicians on the safe and effective use of the Lapiplasty System. Additionally, we have

developed a differentiated direct-to-patient outreach program that educates patients on the benefits of the Lapiplasty System. We also offer a "Find a Doctor" tool on our website that allows potential patients to search for experienced Lapiplasty Procedure surgeons in their local markets. Our patient and surgeon education programs and our specialized teams supporting surgeons in the field, combined with the Lapiplasty System's differentiated clinical outcomes, lead to a significant increase in utilization of the Lapiplasty System per physician over time. For example, as of December 31, 2020, surgeons who performed their first Lapiplasty Procedure in 2020, on average, performed 3.2 procedures during the year while surgeons who performed their first procedure in 2017 or earlier on average performed 17.7 Lapiplasty Procedures in 2020.

Our internal employee engineering personnel and our Surgeon Advisory Board help us to generate ideas and develop product innovations. Our Surgeon Advisory Board is comprised of both podiatrists and orthopaedic foot and ankle surgeons who provides us with holistic insights for developing products that fully meet the needs of each group. Our development team is focused on improving clinical outcomes by designing new procedure-specific products and by developing enhanced surgical techniques.

We have experienced considerable growth since receiving 510(k) clearance for the Lapiplasty System in March 2015. The Lapiplasty System is comprised of single-use implant kits (Lapiplasty Procedure Kit) and reusable instrument trays. The number of Lapiplasty Procedure Kits sold increased from 7,714 in 2019 to 11,113 in 2020, representing growth of 44%, despite the impact of the COVID-19 pandemic on limiting elective procedures in 2020. Since 2017, our revenue has increased from $7.9 million in 2017 to $17.7 million in 2018 to $39.4 million in 2019 to $57.4 million in 2020, representing growth of 46% from 2019 to 2020. Our net losses were $4.3 million and $3.7 million for the years ended December 31, 2019 and December 31, 2020, respectively. We also increased our market share during this period from 0.4% in 2017, 0.8% in 2018 and 1.7% in 2019, to 2.5% in 2020.

We believe the following strengths differentiate our company and will continue to be significant factors in our success and growth:

- paradigm-shifting 3D approach to the surgical treatment of bunions;
- large and underserved market with established reimbursement;
- comprehensive and differentiated clinical evidence;
- robust intellectual property portfolio;
- effective patient outreach and surgeon education programs; and
- highly experienced, proven management team and board of directors.

Our Growth Strategy

Our mission is to be the leader in the surgical treatment of bunions by establishing the Lapiplasty System as the standard of care. We seek to achieve this through the following growth strategies:

- expanding our sales channel to accelerate market penetration;
- driving awareness with innovative direct-to-patient education;
- building upon our base of clinical evidence to further differentiate the Lapiplasty System;
- increasing facility approvals to provide even greater surgeon access to our products; and
- developing our pipeline of next-generation innovations.

While we have no plans to expand operations outside the United States at the present time, significant opportunities for the Lapiplasty System outside the United States exist, subject, in part, to obtaining applicable regulatory approvals.

Our Market

Our Addressable Market Opportunity

Bunions are a common foot deformity that affect approximately 65 million Americans. Nearly 25% of adults between 18 to 65 years of age, and over 35% of people over the age of 65, have bunions. Given the aging demographics of the U.S. population, we expect the current 4.4 million bunion patients seeking medical attention annually in the United States to continue to grow over time. We estimate that approximately 1.1 million of these patients are deemed surgical candidates once their deformity has progressed to a point that it cannot be treated with non-surgical treatment options. Despite the significant limitations of current traditional surgical approaches, approximately 450,000 surgical bunion procedures are performed every year.

Based on the estimated 1.1 million surgical candidates for bunion surgery in the United States each year, we believe a total annual addressable market opportunity of more than $5 billion exists for our Lapiplasty System.

Overview of Bunions

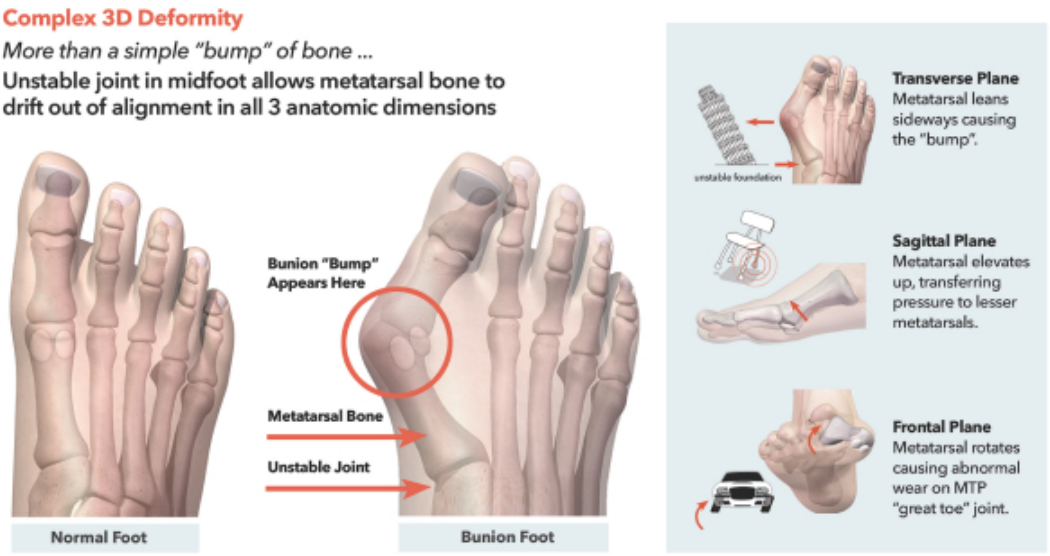
Hallux Valgus (commonly known as bunions) is a painful, disfiguring deformity characterized by a deviated position of the great toe. Bunions are easily identified visually by the “bump” on the joint at the base of the great toe (the metatarsophalangeal (MTP) joint). While this “bump” is widely considered to be the source of pain in bunion sufferers, a structural defect causing misalignment in the middle of the foot is the root cause of the deformity.

Bunion deformities are most commonly considered to be the consequence of a hereditary predisposition. Prevalence increases with age, and one study found that 70% of bunion sufferers are female, and that the disorder occurs in both feet, or bilaterally, in 56% of bunion sufferers. Bunions are progressive deformities, with symptoms that typically grow in severity over time. For those with predispositions for developing bunions, constrained footwear, weight-bearing activities or occupations that aggravate the condition may accelerate progression of the joint deformity and cause symptoms to appear earlier in life. If left untreated, bunions can often have a significant long-term negative impact on sufferers, including:

- **Severe and debilitating pain** in the bunion “bump” at the base of the great toe that can also develop in the ball of the foot.
- **Quality of life deterioration** with limited mobility, restrictions on footwear and an inability to participate in physical activities.
- **Susceptibility to additional pathologies**, such as hammertoes and arthritis of the great toe joint.
- **Increased risk of injury** as decreased stability leads to greater potential for falls.
- **Emotional burden** from becoming increasingly self-conscious about the bunions’ unsightly appearance.

A common misconception is that a bunion is simply an overgrowth of bone that can be shaved off. Bunions are in reality complex 3D deformities caused by an unstable joint in the middle of the foot (the first tarsometatarsal (TMT) joint) which allows the metatarsal bone to drift out of alignment in three anatomic dimensions.

The shift in the metatarsal bone causes bone or tissue at the MTP joint to move out of place, resulting in the visual “bump” associated with bunions.



Historically, there have been two primary surgical approaches to bunion treatment, 2D Osteotomy and Lapidus Fusion. Between the two, approximately 450,000 bunion procedures are performed annually in the United States, of which approximately 75% are 2D Osteotomy procedures and approximately 25% are Lapidus Fusion procedures.

These traditional surgical treatment approaches are characterized by an approximately 30% patient dissatisfaction rate for 2D Osteotomy surgery and a 7% to 13% dissatisfaction rate for Lapidus Fusion following surgery. Clinical literature has identified the primary patient expectations for bunion surgery to be pain relief, shoe fit, mobility and improvement in cosmetic appearance. Certain published long-term clinical studies have demonstrated complication rates as high as 78% following 2D Osteotomy surgery and 46% following Lapidus Fusion surgery, with deformity recurrence being among the most common complications in each. For additional information regarding these studies, see the section titled “Business—Limitations of Traditional Surgical Treatment Approaches.” While not all patients with recurrence require a secondary surgical procedure, this recurrence rate relative to other common surgical procedures is glaringly high and a significant contributor to patient dissatisfaction.

While bunions have traditionally been viewed as a 2D deformity, recent scientific literature has indicated that 87% of bunions have a 3D, rotational component in addition to the horizontal and vertical misalignments of the metatarsal bone. Failure to correct this third “rotational” dimension of the bunion deformity has been reported to result in a 10 to 12 times increase in the chance of bunion recurrence as compared to 3D surgeries. We believe there is a rapidly increasing awareness among surgeons of the need for 3D bunion correction based on the frequency of lectures and medical journal publications on this topic, particularly in recent years.

Our Solution

We have pioneered our proprietary Lapiplasty 3D Bunion Correction System – a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery.

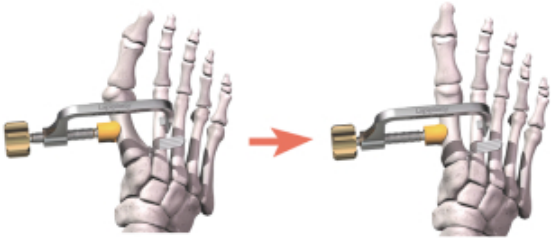
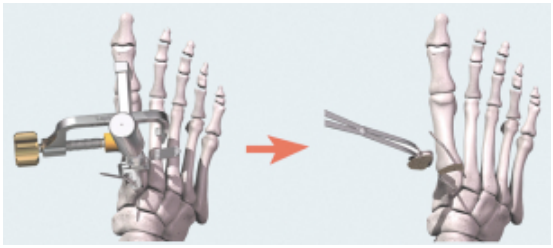
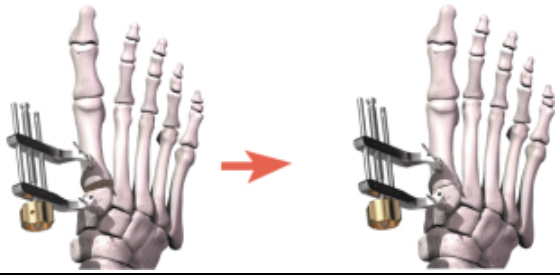
We believe our Lapiplasty System was the first and remains the leading system designed to consistently and reliably correct all three dimensions of the bunion deformity, address the root cause and allow rapid return to weight-bearing in a post-operative boot. In a Lapiplasty Procedure, the entire metatarsal bone is rotated and brought back into position in all three dimensions, eliminating the unsightly bump and restoring normal anatomy. The unstable foundation in the foot is secured with titanium plating technology allowing patients to get back on their feet quickly in a post-operative boot. The Lapiplasty Procedure can be performed on a wide range of patients with bunion deformities in the hospital outpatient or ambulatory surgery center setting, and utilizes existing, well-established reimbursement codes.

The Lapiplasty System includes both procedural instrumentation and single-use, sterile-packed implant kits. Our procedural instrumentation includes novel surgical tools that enable surgeons to correct all three dimensions of the bunion deformity and the root cause of bunions with accuracy and consistency. Our single-use, sterile-packed implant kits feature biplanar plating, which are two low-profile titanium fixation plates designed to stabilize the TMT joint and to allow early weight-bearing in a post-operative boot during the critical healing period.

The following table illustrates key components of the Lapiplasty System:

<table>
<tr><th colspan="2">Procedural instrumentation</th><th>Sterile-packed implant kits</th></tr>
<tr>
<td>Lapiplasty Positioner
 
Engineered to quickly and reproducibly correct metatarsal alignment in all three dimensions</td>
<td>Lapiplasty Compressor
 
Delivers controlled compression to the precision-cut joint surfaces, while maintaining the three-dimensional correction</td>
<td rowspan="2">Sterile Implants and Instruments
 
Single-use implants and instruments used in the Lapiplasty Procedure and ancillary procedures</td>
</tr>
<tr>
<td>Lapiplasty Cut Guide and Fulcrum
 
Delivers precise cuts with the metatarsal held in the corrected position, ensuring optimal cut trajectory</td>
<td>Lapiplasty Light-Weight Tray
 
Includes the Positioner, Compressor and Cut Guide and Fulcrum</td>
<td>Biplanar Plating
 
Provides biomechanically-tested biplanar stability, which are designed to allow rapid return to weight-bearing in a walking boot</td>
</tr>
</table>

The following table illustrates our patented Lapiplasty System, with procedural instrumentation and implants used in each step of our proprietary Lapiplasty Procedure:

Lapiplasty System	
Correct. Make the correction *before* the cut Using the **Lapiplasty Positioner**, the entire metatarsal bone is returned to normal 3D alignment.	
Cut. Perform precision cuts with confidence Using the **Lapiplasty Cut Guide**, the unstable joint surfaces are cut in the corrected position.	
Compress. Achieve controlled compression of joint surfaces Using the **Lapiplasty Compressor**, the two bone surfaces are brought together while 3D correction is maintained.	
Fixate. Apply biplanar fixation for robust stability Using **Biplanar Plating**, two titanium plates are fastened at ninety degree angles and the joint is secured and stabilized. This process is designed to allow for early return to weight-bearing in a post-operative boot while the bones fuse together.	

Expanding our Lapiplasty offerings, we recently launched the Lapiplasty Mini-Incision System, which is designed to allow the Lapiplasty Procedure to be performed through a miniature, 3.5cm incision as compared to the current 6cm to 8cm incision. We believe the Lapiplasty Mini-Incision System offers an attractive option for patients and surgeons.

We have also commercialized products to address ancillary surgical procedures performed routinely within a Lapiplasty surgical case. Providing these ancillary products allows us to capture a higher percentage of the overall product revenue from the surgical case while providing greater efficiency and synergies to the facility and operating room staff by reducing the number of vendors needed to support the case.

We believe that the differentiated clinical advantages of Lapiplasty will support its continued clinical adoption and help establish our Lapiplasty System as the standard of care for bunion surgery. We are committed to advancing the understanding of the Lapiplasty Procedure and its benefits to patients, surgeons, facilities and payors through clinical studies and publications in peer-reviewed literature. The Lapiplasty Procedure has been cited in 15 peer-reviewed journal publications as of December 31, 2020.

Based on the outcomes from multiple studies and our deep experience in the field of bunion surgery, we believe the key advantages of the Lapiplasty System include:

- consistent 3D deformity correction;
- addressing root cause of the deformity;
- ease and reproducibility of the procedure;
- faster return to weight-bearing post-surgery in a post-operative boot;
- consistently slimmer foot; and
- low rate of recurrence.

Our surgeon education and training programs are a key element of our commercial strategy, and we believe our programs differentiate us from our competitors. We devote significant resources to training and educating physicians on the safe and effective use of the Lapiplasty System. Our comprehensive education programs include cadaveric workshops, technical assistance in the operating room and advanced training for both new and existing surgeon customers. Our multiple post-market clinical outcome studies are also unique in the bunion correction field and are a key element of our medical education program.

Recent Developments

Preliminary Estimated Results for the Three Months ended March 31, 2021

We expect preliminary unaudited revenue for the three months ended March 31, 2021 will be approximately $ to $, as compared to $11.3 million for the same period in 2020, gross profit will be approximately $ to $, as compared to $8.9 million for the same period in 2020, net loss and comprehensive loss will be approximately $ to $, as compared to $1.6 million for the same period in 2020, the number of Lapiplasty Procedure Kits sold will be approximately to , as compared to 2,187 for the same period in 2020 and the number of active surgeons will be approximately to , as compared to 1,044 for the same period in 2020. We expect our preliminary unaudited cash and cash equivalents as of March 31, 2021 will be approximately $ to . We have provided a range for the preliminary and unaudited financial results and operating metrics described above primarily because our financial closing procedures for the three months ended March 31, 2021 are not yet complete. As a result, there is a possibility that our final results will vary from these preliminary estimates. We undertake no obligation to update or supplement the information provided above until we release our results of operations for the three months ended March 31, 2021, which will not occur until after this offering is completed. Accordingly,

you should not place undue reliance upon these preliminary financial results and operating metrics. For example, during the course of the preparation of the respective financial statements and related notes, additional items may be identified that would require material adjustments to be made to the preliminary estimated results presented above. There can be no assurance that these estimates will be realized and these estimates are subject to risks and uncertainties, many of which are not within our control. See the sections titled "Risk Factors" and "Special Notes Regarding Forward-Looking Statements." The preliminary estimates for the three months ended March 31, 2021 presented above have been prepared by, and are the responsibility of, management. Grant Thornton LLP, our independent registered public accounting firm, has not audited, reviewed, compiled, or performed any procedures with respect to such preliminary information. Accordingly, Grant Thornton LLP does not express an opinion or any other form of assurance with respect thereto.

Risks Related to Our Business

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled "Risk Factors." These risks include, but are not limited to, the following:

- We have incurred losses in the past and may be unable to achieve or sustain profitability in the future.
- We have a limited operating history and have grown significantly in a short period of time. If we fail to manage our growth effectively, our business could be materially and adversely affected.
- We operate in a very competitive business environment, and if we are unable to compete successfully against our existing or potential competitors, our business, financial condition and results of operations may be adversely affected.
- If we fail to develop and retain an effective direct sales force, or if we are unable to successfully expand our sales management and sales specialist teams, it could negatively impact our ability to grow sales.
- The ongoing global COVID-19 pandemic has adversely affected, and may continue to adversely affect, our business, financial condition and results of operations.
- If we are unable to obtain significant patent protection for our products, or if our patents and other intellectual property rights do not adequately protect our products, we may be unable to gain significant market share and be unable to operate our business profitably.
- If hospitals, ambulatory surgery centers and other health care facilities do not approve the use of our products, our sales may not increase.
- Our business plan relies on certain assumptions about the market for our products, however, the size and expected growth of our addressable market has not been established with precision and may be smaller than we estimate, and even if the addressable market is as large as we have estimated, we may not be able to capture additional market share.
- Industry trends have resulted in increased downward pricing pressure on medical services and products, which may affect our ability to sell our products at prices necessary to support our current business strategy.
- If adequate levels of reimbursement from third-party payors for procedures using our products are not obtained or maintained, surgeons and patients may be reluctant to use our products and our business will suffer.
- If we were to lose one of our key suppliers, we may be unable to meet customer orders for our products in a timely manner or within our budget.
- We are subject to substantial government regulation that could have a material adverse effect on our business.

Our Corporate Information

We were originally formed as a medical device consulting business in July 2013, and began focusing on the foot and ankle market in January 2014. We converted from a Florida limited liability company to a Delaware corporation on July 1, 2014, changing our name to Treace Medical Concepts, Inc.

Our principal executive offices are located at 203 Fort Wade Rd., Suite 150, Ponte Vedra, Florida 32081, and our telephone number is (904) 373-5940. Our website address is www.treace.com. The information on, or that may be accessed through, our website is not incorporated by reference into this prospectus and should not be considered a part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

Trademarks

"Treace Medical Concepts®," the "Treace Medical Concepts®" logo, "Lapiplasty®," "Fast Grafter®," "Align My Toe™," "The Future of Hallux Valgus™," "Fix It Right The First Time™" and "Plantar Python®" are some of the trademarks or registered trademarks of our company. Our logo and our other tradenames, trademarks and service marks appearing in this prospectus are our property. Other tradenames, trademarks and service marks appearing in this prospectus are the property of their respective owners. Solely for convenience, our trademarks and tradenames referred to in this prospectus appear without the ™ or ® symbol, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights, or the right of the applicable licensor, to these trademarks and tradenames.

Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We qualify as an "emerging growth company" (EGC), as defined in the Jumpstart Our Business Startups Act of 2012, as amended (JOBS Act). As an EGC, we may take advantage of specified reduced disclosure and other requirements that are otherwise applicable generally to public companies. These provisions include, but are not limited to:

- being permitted to present only two years of audited financial statements and only two years of related "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this prospectus;
- exemption from the requirement to obtain an attestation and report from our auditors on the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002 (Sarbanes Oxley);
- reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements, including in this prospectus; and
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved.

We may take advantage of these exemptions until we are no longer an EGC. We will cease to be an EGC on the date that is the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of $1.07 billion or more; (ii) the last day of the fiscal year following the fifth anniversary of the completion of this offering; (iii) the date on which we have issued more than $1.0 billion in nonconvertible debt during the previous three years; or (iv) the last day of the year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the Exchange Act), which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year. We may choose to take advantage of some but not all of these exemptions. We have taken advantage of reduced reporting requirements in this prospectus. Accordingly, the information contained herein may be different from the information you receive from other public companies in which you hold stock.

In addition, the JOBS Act provides that an EGC can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an EGC to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date we (i) are no longer an EGC or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We are also a "smaller reporting company" as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as the market value of our voting and non-voting common stock held by non-affiliates is less than $250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than $100.0 million during the most recently completed fiscal year and the market value of our voting and non-voting common stock held by non-affiliates is less than $700.0 million measured on the last business day of our second fiscal quarter.

As a result, the information in this prospectus and that we provide to our investors in the future may be different than what you might receive from other public reporting companies.

THE OFFERING

Common stock offered by us	shares.
Common stock offered by the selling stockholders	shares.
Option to purchase additional shares	We have granted the underwriters an option for a period of 30 days to purchase up to additional shares of our common stock.
Common stock outstanding immediately after this offering	shares (or shares if the underwriters exercise their option to purchase additional shares in full).
Use of proceeds	We estimate that the net proceeds to us from this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any net proceeds from the sale of shares of common stock by the selling stockholders in this offering. We currently intend to use the net proceeds from this offering, together with our existing cash and cash equivalents, to expand our sales force and operations, train additional physicians, develop new products, expand direct to patient education and outreach, conduct or sponsor clinical studies and trials, grow our marketing and patient outreach programs and the remainder, if any, to provide for working capital and other general corporate purposes. We may use a portion of the net proceeds to acquire complementary products, technologies, intellectual property or businesses; however, we currently do not have any agreements to complete any such transactions and are not involved in negotiations regarding such transactions. See the section titled “Use of Proceeds” for more information.
Directed share program	At our request, the underwriters have reserved up to % of the shares offered by this prospectus for sale at the initial public offering price to certain individuals through a directed share program, including our directors, officers and certain other individuals identified by our officers or management. The sales will be made at our direction by J.P. Morgan Securities LLC and its affiliates through a directed share program. The number of shares of our common stock available for sale to the general public in this offering will be reduced to the extent that such persons purchase such reserved shares. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares of our common stock offered by this prospectus. See the section titled “Underwriting” for additional information.
Risk factors	See the section titled “Risk Factors” and the other information included in this prospectus for a discussion of factors you should carefully consider before deciding to invest in our common stock.
Proposed Nasdaq Global Market symbol	“TMCI”

The number of shares of common stock that will be outstanding after this offering is based on shares of common stock outstanding as of December 31, 2020 (assuming the automatic conversion of all of our outstanding shares of our Series A convertible preferred stock as of December 31, 2020 and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock assuming a conversion date of , 2021 as agreed between us and the requisite holders of our Series A convertible preferred stock, into an aggregate of shares of our common stock prior to the completion of this offering), and excludes:

- 6,042,544 shares of our common stock issuable upon the exercise of options outstanding as of December 31, 2020, with a weighted-average exercise price of $2.43 per share;
- 382,500 shares of our common stock issuable upon the exercise of options granted subsequent to December 31, 2020, with a weighted-average exercise price of $9.40 per share;
- 533,332 shares of our common stock issuable upon the exercise of warrants outstanding as of December 31, 2020, with a weighted-average exercise price of $5.38 per share;
- shares of common stock reserved for future grants under our 2014 Stock Option Plan, which shares will be added to the shares to be reserved under our 2021 Incentive Award Plan (2021 Plan), which will become effective immediately before the effective date of this registration statement, and shares of common stock reserved for future grants under our 2021 Plan, as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan; and
- shares of our common stock reserved for issuance pursuant to future awards under our 2021 Employee Stock Purchase Plan (the ESPP), as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan, which will become effective immediately prior to the completion of this offering.

Unless otherwise indicated, this prospectus assumes or gives effect to the following:

- a -for- stock split of our capital stock, which was effected on , 2021;
- the automatic conversion of all shares of our outstanding Series A convertible preferred stock as of December 31, 2020 and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock, assuming a conversion date of , 2021 as agreed between us and the requisite holders of our Series A convertible preferred stock, into an aggregate of shares of our common stock immediately prior to the completion of this offering;
- the filing and effectiveness of our amended and restated certificate of incorporation in Delaware and the adoption of our amended and restated bylaws, each of which will occur immediately prior to the completion of this offering;
- no exercise of outstanding stock options or warrants described above; and
- no exercise of the underwriters' option to purchase additional shares of our common stock from us.

SUMMARY FINANCIAL DATA

The following tables set forth a summary of our historical financial data as of and for the periods indicated. We have derived the summary statements of operations and comprehensive loss data for the years ended December 31, 2019 and 2020 and the summary balance sheet data as of December 31, 2020 from our audited financial statements that are included elsewhere in this prospectus. You should read this data together with our financial statements and related notes thereto included elsewhere in this prospectus and the information in the sections titled "Selected Financial Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations." The summary financial data included in this section are not intended to replace the audited financial statements and related notes thereto included elsewhere in this prospectus and are qualified in their entirety by the audited financial statements and related notes thereto included elsewhere in this prospectus. Our historical results are not necessarily indicative of our future results.

	Year Ended December 31,	
	2019	2020
	(in thousands, except share and per share data)	
Statements of Operations and Comprehensive Loss Data:		
Revenue	$ 39,416	$ 57,365
Cost of goods sold	7,631	12,470
Gross profit	31,785	44,895
Operating expenses:		
Sales and marketing	25,786	31,654
Research and development	5,070	5,847
General and administrative	4,464	6,539
Total operating expenses	35,320	44,040
Income (loss) from operations	(3,535)	855
Interest and other income (expense), net	111	(1,746)
Interest expense	(841)	(2,777)
Interest and other expense, net	(730)	(4,523)
Net loss and comprehensive loss	(4,265)	(3,668)
Series A convertible preferred stock cumulative and undeclared dividends	(640)	(640)
Net loss attributable to common stockholders	$ (4,905)	$ (4,308)
Net loss per share attributable to common stockholders, basic and diluted(1)	$ (0.18)	$ (0.16)
Weighted-average shares used in computing net loss per share attributable to common stockholders, basic and diluted(1)	27,597,463	27,715,129
Pro forma net loss per share, basic and diluted (unaudited)(1)		
Weighted-average shares outstanding used in computing pro forma net loss per share, basic and diluted (unaudited)(1)		

(1) See Note 11 to our financial statements included elsewhere in this prospectus for further information on the calculations of net loss per share attributable to common stockholders.

	As of December 31, 2020		
	Actual	Pro Forma(1)	Pro Forma As Adjusted (2)(3)
	(in thousands)		
			(unaudited)
Balance Sheet Data:			
Cash and cash equivalents	$ 18,079	$	$
Working capital(4)	29,380		
Total assets	41,807		
Long-term liabilities	29,189		
Series A convertible preferred stock	7,935		
Additional paid-in capital	14,166		
Accumulated deficit	(21,353)		
Total stockholders' equity (deficit)	776		

(1) The pro forma balance sheet data gives effect to (i) the automatic conversion of all outstanding shares of our Series A convertible preferred stock into an aggregate of shares of our common stock, which includes the conversion of 5,000,000 shares of our Series A convertible preferred stock outstanding and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock, assuming a conversion date of , 2021, as agreed between us and the requisite holders of our Series A convertible preferred stock, and (ii) the filing and effectiveness of our amended and restated certificate of incorporation, in each case, immediately prior to the completion of this offering.

(2) The pro forma as adjusted column in the balance sheet data table above gives effect to (i) the pro forma adjustments described in footnote (1) above and (ii) the sale and issuance of shares of common stock by us in this offering, at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(3) A $1.00 increase or decrease in the assumed initial public offering price of per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the pro forma as adjusted amount of each of our cash and cash equivalents, additional paid-in capital and total stockholders' equity (deficit) by $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, an increase or decrease of 1.0 million shares in the number of shares of common stock offered would increase decrease, as applicable, each of our cash and cash equivalents, additional paid-in capital and total stockholders' equity (deficit) or total capitalization by $ million, assuming the initial public offering price remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. The pro forma information discussed above is illustrative only and will be adjusted based on the actual initial public offering price, the number of shares we sell and other terms of this offering that will be determined at pricing.

(4) We define working capital as current assets less current liabilities. See our financial statements and related notes thereto included elsewhere in this prospectus for further details regarding our current assets and current liabilities.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes thereto included elsewhere in this prospectus, before deciding whether to invest in shares of our common stock. The risks described below are not the only ones facing us. The occurrence of any of the following risks or additional risks and uncertainties not presently known to us or that we currently believe to be immaterial could materially and adversely affect our business, financial condition, results of operations and future prospects. In that event, the market price of our common stock could decline, and you could lose all or part of your investment. Please also see the sections titled "Special Note Regarding Forward-Looking Statements" and "Market, Industry and Other Data."

Risks Related to Our Financial Condition and Capital Requirements

We have incurred losses in the past and may be unable to achieve or sustain profitability in the future.

We incurred net losses in each period since we commenced operations. For 2020, we incurred net losses of $3.7 million and as of December 31, 2020, we had an accumulated deficit of $21.4 million and $29.2 million of principal outstanding under our term loan agreement. We expect to continue to incur significant product development, clinical and regulatory, sales and marketing, medical education and other expenses. In addition, we expect that our general and administrative expenses will increase following this offering due to the additional costs associated with being a public company. These efforts and additional expenses may be more costly than we expect, and we cannot guarantee that we will be able to increase our revenue to offset such expenses. Our revenue may decline or our revenue growth may be constrained for a number of reasons, including reduced demand for our products and services, increased competition or if we cannot capitalize on growth opportunities. We will need to generate significant additional revenue to achieve and sustain profitability and, even if we achieve profitability, we cannot be sure that we will remain profitable for any substantial period of time. Our failure to achieve or sustain profitability could negatively impact the value of our common stock.

We have a limited operating history and have grown significantly in a short period of time. If we fail to manage our growth effectively, our business could be materially and adversely affected.

We formed as a medical device consulting business in July 2013, and began focusing on the foot and ankle market in January 2014. Accordingly, we have a limited operating history, which makes it difficult to evaluate our future prospects. Our operating results have fluctuated in the past, and we expect our future quarterly and annual operating results to continue to fluctuate as we focus on increasing the demand for our products and continue to develop clinical evidence to support the safety and efficacy of our Lapiplasty System, as well as develop new product innovations. We may need to make business decisions that could adversely affect our operating results, such as modifications to our pricing strategy, business structure or operations.

In addition, we have experienced recent rapid growth and anticipate further growth. For example, the number of our full-time employees increased from 32 as of December 31, 2017 to 133 as of December 31, 2020. This growth has placed significant demands on our management, financial, operational, technological and other resources, and we expect that our growth will continue to place significant demands on our management and other resources and will require us to continue developing and improving our operational, financial and other internal controls. In particular, continued growth increases the challenges involved in a number of areas, including recruiting and retaining sufficient skilled personnel for our direct sales force, providing adequate training and supervision to maintain our high-quality standards and preserving our culture and values. We may not be able to address these challenges in a cost-effective manner, or at all. To achieve our revenue goals, we must also successfully increase our supply of products from third party manufacturers to meet expected customer demand. In the future, we may experience difficulties with quality control, component supply and shortages of

qualified personnel, among other problems. These problems could result in delays in product availability and increases in expenses. Any such delay or increased expense could adversely affect our ability to generate revenue. In addition, rapid and significant growth will place a strain on our administrative and operational infrastructure. In order to manage our operations and growth, we will need to continue to improve our operational and management controls, hiring process, reporting and information technology systems and financial internal control procedures. If we do not effectively manage our growth, we may not be able to execute on our business plan, respond to competitive pressures, take advantage of market opportunities, satisfy customer requirements or maintain high-quality product offerings, which could have a material adverse effect on our business, financial condition and results of operations.

The terms of our credit agreements require us to meet certain operating and financial covenants and place restrictions on our operating and financial flexibility. If we raise additional capital through debt financing, the terms of any new debt could further restrict our ability to operate our business.

Under the terms of our loan agreements discussed in more detail under section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Short-Term and Long-Term Debt Obligations," we are subject to certain affirmative and negative covenants, including (but not limited to), financial covenants related to minimum revenue and minimum liquidity, covenants limiting our ability to incur certain additional indebtedness, create certain liens, enter into a change of control transaction and make certain distributions and investments without our lenders' consent. Our lenders may also declare us in default for certain types of events such as non-payment of debts, inaccurate representations and warranties, failure to comply with terms of material indebtedness and material agreements, bankruptcy and insolvency, a change of control and/or a material adverse change. Upon such events, our lenders could declare an event of default, which would give them the right to declare all borrowings outstanding, together with accrued and unpaid interest and fees, to be immediately due and payable. In addition, our lenders would have the right to proceed against the assets we provided as collateral under the loan agreements. For example, under our loan with Silicon Valley Bank (SVB), SVB would have the right to enforce liens and security interests over substantially all of our assets (excluding intellectual property) in the event of certain specified defaults under the loan with SVB. In addition, for our loan with CR Group LP (CRG), CRG would have the right to enforce liens and security interests in substantially all of our assets (including intellectual property) in the event of certain specified defaults under the loan with CRG, provided that the priority of such liens are subject to an intercreditor agreement between CRG and SVB. If the debt under any of our loan agreements is accelerated, we may not have sufficient cash or be able to sell sufficient assets to repay this debt or may have to curtail our growth plans, which would harm our business and financial condition.

Additional capital, if needed, may not be available on acceptable terms, if at all.

Even if this offering is successful, we may require additional capital to maintain and expand our operations. Our operations are capital-intensive and are expected to increase as we expand our sales force, research and development efforts and product offerings. If we raise additional funds through the issuance of equity, equity-linked or debt securities, those securities may have rights, preferences or privileges senior to those of our common stock, and our existing stockholders may experience dilution. Any debt financing secured by us in the future could require that a substantial portion of our operating cash flow be devoted to the payment of interest and principal on such indebtedness, which may decrease available funds for other business activities, and could involve restrictive covenants relating to our capital-raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. We cannot be certain that we will be able to obtain additional financing on favorable terms, if at all. If we cannot raise funds on acceptable terms, if and when needed, we may not be able to continue as a going concern or we may not be able to grow our business or respond to competitive pressures or unanticipated requirements, which could seriously harm our business.

Risks Related to Our Business and Industry

We operate in a very competitive business environment, and if we are unable to compete successfully against our existing or potential competitors, our business, financial condition and results of operations may be adversely affected.

Our existing products and procedures are, and any new products or procedures we develop and commercialize will be, subject to intense competition. The industry in which we operate is competitive, subject to change and sensitive to the introduction of new products, procedures or other market activities of industry participants. Our ability to compete successfully will depend on our ability to continue to train surgeons on the Lapiplasty Procedure and gain their acceptance of the procedure, develop additional products and procedures to improve Lapiplasty and expand our product offerings that reach the market in a timely manner, receive adequate coverage and reimbursement from third-party payors and provide products that are easier to use, safer, less invasive and more effective than the products and procedures of our competitors.

We compete with large, diversified orthopaedic companies, including Stryker Corporation and its newly acquired Wright Medical Group, Inc. businesses, DePuy Synthes Products, Inc., a Johnson & Johnson subsidiary, Arthrex, Inc. and Smith & Nephew. Other large, diversified orthopaedic companies that may compete with us include Zimmer Biomet Holdings, Inc. and Integra LifeSciences Holdings Corporation. We also compete with smaller orthopaedic companies. We also face potential competition from many different sources, including academic institutions, governmental agencies and public and private research institutions.

At any time, these competitors and other potential market entrants may develop new products, procedures or treatment alternatives that could render our products obsolete or uncompetitive. In addition, one or more of such competitors may gain a market advantage by developing and patenting competitive products, procedures or treatment alternatives earlier than we can, obtaining regulatory clearances or approvals more rapidly than we can or selling competitive products at prices lower than ours. If medical research were to lead to the discovery of alternative therapies or technologies that improve or cure bunions as an alternative to surgery, such as by natural correction of the unstable joint in the middle of the foot, the use of pharmaceuticals or breakthrough bio-technological innovations or therapies, our profitability could suffer through a reduction in sales or a loss in market share to a competitor. The discovery of methods of prevention or the development of other alternatives to the Lapiplasty Procedure could result in decreased demand for our products and, accordingly, could have a material adverse effect on our business, financial condition and results of operations. Many of our current and potential competitors have substantially greater sales and financial resources than we do. These competitors may also have more established distribution networks, a broader offering of products, entrenched relationships with surgeons and distributors or greater experience in launching, marketing, distributing and selling products or treatment alternatives.

We also compete with our competitors to engage the services of independent sales agents, both those presently working with us and those with whom we hope to work with as we expand. In addition, we compete with our competitors in acquiring technologies and technology licenses complementary to our products or procedures or advantageous to our business. If we are unable to compete successfully against our existing or potential competitors, our business, financial condition and results of operations may be adversely affected, and we may not be able to grow at our expected rate, if at all.

If we fail to develop and retain an effective direct sales force, or if we are unable to successfully expand our sales management and sales specialist teams, it could negatively impact our sales, and we may not generate sufficient revenue to sustain profitability.

Our revenue and profitability is directly dependent upon the sales and marketing efforts of our sales management and sales specialist teams. In order to expand our business, we plan to build a substantial direct sales force. We believe it is necessary to utilize sales management and sales specialist teams that have strong sales leadership and technical background specializing in sales and marketing of products for foot and ankle

surgery procedures. As we increase our marketing efforts, we will need to retain, develop and grow the number of direct sales personnel that we employ. We intend to make a significant investment in recruiting and training sales representatives and clinical representatives as we expand our business. There is significant competition for sales personnel experienced in relevant medical device sales. Once hired, the training process is lengthy because it requires significant education for new sales representatives and clinical specialists to achieve the level of clinical competency with our products expected by surgeons. Upon completion of the training, our sales representatives typically require lead time in the field to grow their network of accounts and achieve the productivity levels we expect them to reach in any individual territory. Furthermore, the use of our products often requires or benefits from direct support from us, including through our experienced sales representatives that provide assistance in the operating room. Our future success will depend largely on our ability to continue to hire, train, retain and motivate skilled members of our sales management and sales specialist teams with significant technical knowledge in various areas. If we are unable to attract, motivate, develop and retain a sufficient number of qualified sales personnel, and if our sales representatives do not achieve the productivity levels we expect them to reach, our revenue will not grow at the rate we expect and our financial performance will suffer. Also, to the extent we hire personnel from our competitors, we may have to wait until applicable non-competition provisions have expired before deploying such personnel in restricted territories or incur costs to relocate personnel outside of such territories, and we have been in the past, and may be subject to future allegations that these new hires have been improperly solicited, and that they have divulged to us proprietary or other confidential information of their former employers. Additionally, because the market for experienced sales personnel is competitive, our competitors may try to hire our sales personnel away from us. If successful, we would be required to dedicate resources to recruiting, filling and training those vacant positions. We may also be vulnerable to poaching of our sales personnel from our competitors. Any of these risks may adversely affect our business.

We rely in part on independent sales agents to sell our products to our customers, and if we are unable to maintain and expand our network of independent sales agents, we may be unable to generate anticipated sales.

We utilize a hybrid sales team with a mix of employee sales personnel and independent sales agents to sell our products to surgeons, hospitals, clinics and other end users and to assist us in promoting market acceptance of, and creating demand for, our products. If we are unable to come to commercially reasonable terms with a sales agent or agents, we may not generate the expected level of sales and may need to spend more of our capital resources to hire sales personnel as employees. In addition, there is a risk that a sales agent that we contract with will give higher priority to the products of other medical device companies, including products directly competitive with our products or may be required by larger medical devices companies to stop offering our products. Though we have established initiatives to further focus our independent sales channel on our products, these initiatives may not translate to the increase sales or penetration which we expect. There can be no assurance that a sales agent will devote the resources necessary to provide effective sales and promotional support to our products. In addition, if an independent sales agent terminates its relationship with us and is retained by one of our competitors, we may be unable to prevent them from helping competitors solicit business from our existing customers, which could adversely affect our sales. Until we establish a direct sales force sufficient to serve our customers, we will continue to rely on an independent sales force.

Our business plan relies on certain assumptions about the market for our products, however, the size and expected growth of our addressable market has not been established with precision and may be smaller than we estimate, and even if the addressable market is as large as we have estimated, we may not be able to capture additional market share.

Our estimates of the addressable market for our current products and future products are based on a number of internal and third-party estimates and assumptions, including the prevalence of bunion sufferers and the difficulty of persuading bunion suffers to undergo bunion surgery and specifically the Lapiplasty Procedure. While we believe our assumptions and the data underlying our estimates are reasonable, these assumptions and

our estimates may not be correct. For example, we believe that the aging of the general population and increasingly active lifestyles will continue and that these trends will increase the need for our products. However, the projected demand for our products could materially differ from actual demand if our assumptions regarding these trends and acceptance of our products by the medical community prove to be incorrect or do not materialize, or if non-surgical treatments or other surgical techniques gain more widespread acceptance as a viable alternative to the Lapiplasty Procedure. In addition, even if the number of bunion sufferers who elect to undergo bunion surgery, and the Lapiplasty Procedure in particular, increases as we expect, technological or medical advances could provide alternatives to address bunion deformities and reduce demand for bunion surgery. As a result, our estimates of the addressable market for our current or future products and procedures may prove to be incorrect. Further, one component of our growth strategy is our direct to patient education program, which we expect will help us educate additional bunion patients about our products and procedures; however, these patient engagements may not be as successful at educating potential surgical candidates as we expect. Thus, even if the total addressable market for our current and future products and procedures is as large as we have estimated, we may not be able to penetrate the existing market to capture additional market share for the reasons discussed in this "Risk Factors" section. If the actual number of bunion sufferers who would benefit from our products, the price at which we can sell future products or the addressable market for our products is smaller than we estimate, or if the total addressable market is as large as we have estimated but we are unable to capture additional market share, it could have a material adverse effect on our business, financial condition and results of operations.

The ongoing global COVID-19 pandemic has adversely affected, and may continue to adversely affect, our business, financial condition and results of operations.

Market factors and disruptions in global markets may also affect our future operating results and cash flows. The COVID-19 pandemic has severely restricted the level of economic activity around the world. On January 30, 2020, the WHO declared the COVID-19 outbreak a Public Health Emergency of International Concern, and on March 13, 2020, the COVID-19 pandemic was declared a national emergency. Almost all U.S. states, including Florida where our headquarters is located, issued, and others in the future may issue, "shelter-in-place" orders, quarantines, executive orders and similar government orders, restrictions and recommendations to control the spread of COVID-19. As a result of those government restrictions, throughout 2020 and, in some cases, extending into 2021, temporary closures of businesses were ordered, numerous other businesses temporarily closed voluntarily and hospitals, ambulatory surgical centers and surgeons were ordered to delay elective surgeries in an attempt to free up medical resources to address the COVID-19 pandemic. While many elective surgery restrictions have been lifted, these and other restrictions may be reinstated in the future.

We have experienced disruptions to our revenue and may experience further business disruptions, including disruptions to our supply chain, independent sales agents, customers, study enrollment timelines and regulatory processes. Further, patients continue to delay or forego bunion surgery procedures to avoid hospitals and ambulatory surgical centers and comply with quarantine and/or similar directives from local and national health and government officials. The delayed or foregone bunion surgeries have had a significant impact on our operations and resulted in a rapid decrease in revenue and cash flows beginning in March 2020, as compared to prior periods and original expectations. Despite some recovery, this reduction in sales, as compared to original expectations, have continued. We expect the negative impacts to continue and may worsen in at least the short-term during the COVID-19 pandemic. While we cannot reasonably estimate the duration or severity of the COVID-19 pandemic, we expect that it will continue to have an adverse impact on our business, results of operations, financial position and liquidity for at least the remainder of 2021. Moreover, the COVID-19 pandemic has contributed to significant volatility in global financial markets, potentially reducing our ability to access capital, which could in the future negatively affect our liquidity.

For additional information regarding the impact of the COVID-19 pandemic on our company, see the section titled "Management's Discussion and Analysis of Financial Conditions and Results of Operations—Factors Affecting Our Business—Impact of COVID-19 Pandemic."

The seasonality of our business creates variance in our quarterly revenue, which makes it difficult to compare or forecast our financial results.

Our revenue fluctuates on a seasonal basis, which affects the comparability of our results between periods. In particular, we have experienced and expect to continue to experience seasonality in our business, with higher sales volumes in the fourth calendar quarter and lower sales volumes in the first calendar quarter. Our sales volumes in the fourth calendar quarter tend to be higher as many patients elect to have surgery after meeting their annual deductible and having time to recover over the winter holidays. Our sales volumes in the first calendar quarter tend to be lower as a result of adverse weather and by resetting annual patient healthcare insurance plan deductibles, both of which may cause patients to delay elective procedures. The orthopaedic industry traditionally experiences lower sales volumes in the third quarter than throughout the rest of the year as elective procedures generally decline during the summer months. Although we follow orthopaedic industry trends generally, to date our third quarter sales volumes have not been lower than other quarters but we may experience relatively lower sales volumes during third quarters in the future. Medical device companies historically experience a decline in the number of orthopaedic implant surgeries in the summer months, and we may experience similar seasonality in the future. These seasonal variations are difficult to predict accurately, may vary amongst different markets and at times may be entirely unpredictable, which introduce additional risk into our business as we rely upon forecasts of customer demand to build inventory in advance of anticipated sales. In addition, we believe our limited history commercializing our products has, in part, made our seasonal patterns more difficult to discern, making it more difficult to predict future seasonal patterns.

If we cannot innovate at the pace of our competitors, we may not be able to develop or exploit new products or procedures in time to remain competitive.

For us to remain competitive, it is essential to develop and bring to market new products and procedures at an increasing speed. If we are unable to meet customer demands for new products and procedures, or if the products and procedures we introduce are viewed less favorably than our competitors' products or procedures, our results of operations and future prospects may be negatively affected. To meet our customers' needs in these areas, we must continuously design new products, update existing products and invest in and develop and enhance our procedures. Our operating results depend to a significant extent on our ability to anticipate and adapt to technological changes in the bunion surgery market, keep pace with developments and innovations by our competitors and maintain a strong product pipeline. Any inability to do so could have a material adverse effect on our business, financial condition and results of operations.

Product liability lawsuits and quality system problems could harm our business.

The manufacture and sale of medical devices exposes us to risk of product liability claims. If any of our products become the subject of a product liability claim, legal defenses are costly, regardless of the outcome. Thus, we may experience increased legal expenses as we defend any such matter, and we could incur liabilities associated with adverse outcomes that exceed our insurance coverage.

Additionally, we could experience a material design or manufacturing failure in our products, a quality system failure, other safety issues or heightened regulatory scrutiny that would warrant a recall of some of our products. Product liability lawsuits and claims, safety alerts and product recalls, regardless of their ultimate outcome, could have a material adverse effect on our business and reputation and on our ability to attract and retain customers.

If the product liability claims brought against us involve uninsured liabilities or result in liabilities that exceed our insurance coverage, our business, financial condition and results of operations could be materially and adversely affected. Further, such product liability matters may negatively impact our ability to obtain insurance coverage or cost-effective insurance coverage in future periods.

Industry trends have resulted in increased downward pricing pressure on medical services and products, which may affect our ability to sell our products at prices necessary to support our current business strategy.

The trend toward health care cost containment through aggregating purchasing decisions and industry consolidation, along with the growth of managed care organizations, is placing increased emphasis on the delivery of more cost-effective medical therapies. For example:

- There has been consolidation among health care facilities and purchasers of medical devices, particularly in the United States. One of the results of such consolidation is that group purchasing organizations (GPOs), integrated delivery networks and large single accounts use their market power to consolidate purchasing decisions, which intensifies competition to provide products and services to health care providers and other industry participants, resulting in greater pricing pressures and the exclusion of certain suppliers from important market segments. For example, some GPOs negotiate pricing for their member hospitals and require us to discount, or limit our ability to increase, prices for certain of our products.
- Surgeons increasingly have moved from independent, outpatient practice settings toward employment by hospitals and other larger health care organizations, which aligns surgeons' product choices with their employers' price sensitivities and adds to pricing pressures. Hospitals and health care facilities have introduced and may continue to introduce new pricing structures into their contracts to contain health care costs, including fixed price formulas and capitated and construct pricing.
- Certain hospitals provide financial incentives to doctors for reducing hospital costs (known as gainsharing), rewarding physician efficiency (known as physician profiling) and encouraging partnerships with health care service and goods providers to reduce prices.
- Existing and proposed laws, regulations and industry policies, in both domestic and international markets, regulate or seek to increase regulation of sales and marketing practices and the pricing and profitability of companies in the health care industry.

More broadly, provisions of the Affordable Care Act (ACA) could meaningfully change the way health care is developed and delivered in the United States, and may adversely affect our business and results of operations. For further discussion of these challenges, see "—Risks Related to Regulatory Matters—Changes in health care policy and regulation may have a material adverse effect on us." We cannot predict accurately what health care programs and regulations will ultimately be implemented at the federal or state level, or the effect of any future legislation or regulation in the United States or elsewhere. However, any changes that have the effect of reducing reimbursements for our products or reducing medical procedure volumes could have a material and adverse effect on our business, financial condition and results of operations.

In addition, the largest device companies with multiple product franchises have increased their effort to leverage and contract broadly with customers across franchises by providing volume discounts and multi-year arrangements that could prevent our access to these customers or make it difficult, or impossible, to compete on price.

Our employees and independent contractors, including independent sales consultants and any other consultants, any future service providers and other vendors, may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements, which could have an adverse effect on our results of operations.

We are exposed to the risk that our employees and independent contractors, including independent sales consultants and any other consultants, any future commercial collaborators, and other vendors may engage in misconduct or other illegal activity. Misconduct by these parties could include intentional, reckless and/or negligent conduct or other unauthorized activities that violate federal, state or local laws and regulations, as well as the laws, regulations and rules of regulatory bodies such as the FDA; manufacturing standards; U.S. federal and state health care fraud and abuse, data privacy laws and other similar non-U.S. laws; or laws that require the

true, complete and accurate reporting of financial information or data. It is not always possible to identify and deter misconduct by employees and other third parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with such laws or regulations. In addition, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business and financial results, including, without limitation, the imposition of significant civil, criminal and administrative penalties, damages, monetary fines, disgorgements, possible exclusion from participation in Medicare, Medicaid and other U.S. health care programs, other sanctions, imprisonment, contractual damages, reputational harm, diminished profits and future earnings and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

Risks Related to Administrative, Organizational and Commercial Operations and Growth

If hospitals, ambulatory surgery centers and other health care facilities do not approve the use of our products, our sales may not increase.

In order for surgeons to use our products at hospitals, ambulatory surgery centers and other health care facilities, we are often required to obtain approval from those hospitals, ambulatory surgery centers and health care facilities. Typically, hospitals, ambulatory surgery centers and health care facilities review the comparative effectiveness and cost of products used in the facility. The makeup and evaluation processes for health care facilities vary considerably, and it can be a lengthy, costly and time-consuming effort to obtain approval by the relevant health care facilities. Additionally, hospitals, ambulatory surgery centers, other health care facilities and GPOs, which manage purchasing for multiple facilities, may also require us to enter into a purchase agreement and satisfy numerous elements of their administrative procurement process, which can also be a lengthy, costly and time-consuming effort. If we do not obtain access to hospitals, ambulatory surgery centers and other health care facilities in a timely manner, or at all, via their approvals or purchase contract processes, or otherwise, or if we are unable to obtain approvals or secure contracts in a timely manner, or at all, our operating costs will increase, our sales may decrease and our operating results may be adversely affected. Furthermore, we may expend significant efforts on these costly and time-consuming processes but may not be able to obtain necessary approvals or secure a purchase contract from such hospitals, ambulatory surgery centers, health care facilities or GPOs.

If adequate levels of reimbursement from third-party payors for procedures using our products are not obtained or maintained, surgeons and patients may be reluctant to use our products and our business will suffer.

In the United States, health care providers who purchase our products generally rely on third-party payors, principally federally-funded Medicare, state-funded Medicaid and private health insurance plans, to pay for all or a portion of the cost of bunion correction procedures and products utilized in those procedures. We may be unable to sell our products on a profitable basis if third-party payors deny coverage or reduce their current levels of reimbursement for procedures using products of the type we intend to offer. Our sales depend largely on governmental health care programs and private health insurers reimbursing patients' medical expenses. Surgeons, hospitals and other health care providers may not purchase our products if they do not receive appropriate reimbursement from third-party payors for procedures using our products. Payors continue to review their coverage policies for existing and new therapies and may deny coverage for treatments that include the use of our products.

In addition, some health care providers in the United States have adopted or are considering bundled payment methodologies and/or managed care systems in which the providers contract to provide comprehensive health care for a fixed cost per person. Health care providers may attempt to control costs by authorizing fewer

elective surgical procedures, including bunion correction surgeries, or by requiring the use of the least expensive procedure available. In addition, third-party payors increasingly are requiring evidence that medical devices are cost-effective, and if we are unable to meet this requirement, the third-party payor may not reimburse the use of our products, which could reduce sales of our products to health care providers who depend upon reimbursement for payment. Changes in reimbursement policies or health care cost containment initiatives that limit or restrict reimbursement for procedures using our products may have an adverse effect on our business.

If we experience problems with, or are required to change, our suppliers or manufacturers, we may be unable to meet customer orders for our products in a timely manner or within our budget.

For us to be successful, our suppliers must be able to provide us with products and components in substantial quantities, in compliance with regulatory requirements, in accordance with agreed upon specifications, at acceptable costs and on a timely basis. An interruption in our commercial operations could occur if we encounter delays or difficulties in securing these components, and if we cannot then obtain an acceptable substitute. We rely on a limited number of suppliers for the components used in our products. Our suppliers may also not prioritize the production of our products compared to the suppliers' larger customers so we may experience longer delays in receiving our requested orders.

If we are required to transition to new third-party suppliers for certain components of our products, the use of components or materials furnished by these alternative suppliers could require us to alter our operations. Any such interruption or alteration could harm our reputation, business, financial condition and results of operations.

Furthermore, if we are required to change the manufacturer of a critical component of our Lapiplasty System, we will be required to verify that the new manufacturer maintains facilities, procedures and operations that comply with our quality standards and applicable regulatory requirements, which could further impede our ability to manufacture our products in a timely manner. Transitioning to a new supplier could be time-consuming and expensive, may result in interruptions in our operations and product delivery, could affect the performance specifications of our products or could require that we modify the design of those products. A change in manufacturer could trigger the requirement to submit and obtain a new 510(k) clearance from the U.S. Food and Drug Administration (FDA), or similar international regulatory authorization before we implement the change, which could cause substantial delays. The occurrence of any of these events could harm our ability to meet the demand for our products in a timely manner or cost-effectively.

We cannot assure you that any need to change suppliers or manufacturers will not cause interruptions in our workflow. For example, if we should encounter delays or difficulties in securing, reconfiguring or revalidating the equipment and components we require for our Lapiplasty Systems, our reputation, business, financial condition and results of operations could be negatively impacted.

We may not be able to establish or strengthen our brand.

We believe that establishing and strengthening the Treace and Lapiplasty brands is important to achieving widespread acceptance of the Lapiplasty Procedure, particularly because of the highly competitive nature of the market for similar products. Promoting and positioning our brand will depend largely on the success of our medical education efforts and our ability to educate surgeons and patients. Additionally, we believe the quality and reliability of our product is critical to building physician support of this new surgical technique in the United States, and any negative publicity regarding the quality or reliability of the Lapiplasty System could significantly damage our reputation in the market. These brand promotion activities may not yield increased sales and, even if they do, any sales increases may not offset the expenses we incur to promote our brand. If we fail to successfully promote and maintain our brand, or if we incur substantial expenses in an unsuccessful attempt to promote and maintain our brand, our Lapiplasty solution may not be accepted by physicians or patients, which would adversely affect our business, results of operations and financial condition.

Our inability to maintain contractual relationships with health care professionals could have a negative impact on our research and development and medical education programs.

We maintain contractual relationships with respected physicians and medical personnel in hospitals, private practice and universities who assist in clinical studies, product research and development and in the training of surgeons on the safe and effective use of our products (see "Business — Product Development and our Surgeon Advisory Board"). We continue to place emphasis on the validation of the benefits of the Lapiplasty Procedure through clinical studies, the development of proprietary products and product improvements to develop our product lines as well as providing high quality training on those products. If we are unable to maintain these relationships, our ability to develop and market new and improved products and train on the use of those products could decrease, and future operating results could be unfavorably affected.

We may be unable to continue to successfully demonstrate to surgeons or key opinion leaders the merits of our products and technologies compared to those of our competitors, which may make it difficult to establish our products and technologies as a standard of care and achieve market acceptance.

Surgeons play the primary role in determining the course of treatment and, ultimately, the type of products that will be used to treat a patient. As a result, our success depends, in large part, on our ability to effectively market and demonstrate to foot and ankle surgeons the merits of our products and methodologies compared to those of our competitors. Acceptance of our products and methodologies depends on educating surgeons as to the distinctive characteristics, clinical benefits, safety and cost-effectiveness of the Lapiplasty Procedure and our other products and technologies as compared to those of our competitors, and on training surgeons in the proper use of our products. If we are not successful in convincing surgeons of the merits of our products and methodologies or educating them on the use of our products, they may not use our products or may not use them effectively and we may be unable to increase our sales, sustain our growth or achieve and sustain profitability.

Also since the Lapiplasty Procedure is a new procedure, some surgeons may be reluctant to change their surgical treatment practices for the following reasons, among others:

- lack of experience with our products and procedures;
- existing relationships with competitors and distributors that sell competitive products;
- lack or perceived lack of evidence supporting additional patient benefits;
- perceived liability risks generally associated with the use of new products and procedures;
- less attractive availability of coverage and reimbursement by third-party payors compared to procedures using competitive products and other techniques;
- costs associated with the purchase of new products and equipment; and
- the time commitment that may be required for training.

These reasons may affect the pace of adoption of the Lapiplasty Procedure and future products and techniques that we may offer.

In addition, we believe recommendations and support of our products and technologies by influential surgeons and key opinion leaders in our industry are essential for market acceptance and establishment of our products and procedures as a standard of care. If we do not receive support from such surgeons and key opinion leaders, if long-term data does not show the benefits of using our products and procedures or if the benefits offered by our products and procedures are not sufficient to justify their cost, surgeons, hospitals and other health care facilities may not use our products and we might be unable to establish our products and procedures as a standard of care and continue to achieve market acceptance.

If surgeons fail to safely and appropriately use our products, or if we are unable to train podiatrists and orthopaedic surgeons on the safe and appropriate use of our products, we may be unable to achieve our expected sales, growth or profitability.

An important part of our sales process includes our ability to screen for and identify podiatrists and orthopaedic surgeons who have the requisite training and experience to safely and appropriately use our products and to train a sufficient number of these surgeons and to provide them with adequate instruction in use of our products. There is a training process involved for surgeons to become proficient in the safe and appropriate use of our products. This training process may take longer or be more expensive than expected and may therefore affect our ability to increase sales. Convincing surgeons to dedicate the time and energy necessary for adequate training is challenging, and we may not be successful in these efforts. Recent changes to federal guidance regarding medical education programs under the federal Anti-Kickback Statute also could limit our ability to train podiatrists and orthopaedic surgeons, and such programs could be subject to challenge under the federal Anti-Kickback Statute. Furthermore, if clinicians are not properly trained, they may misuse or ineffectively use our products. Any improper use of our products may result in unsatisfactory outcomes, patient injury, negative publicity or lawsuits against us, any of which could harm our reputation and affect future product sales. Accordingly, if surgeons fail to safely and appropriately use our products or if we are unable to train surgeons on the safe and appropriate use of our products, we may be unable to achieve our expected sales, growth or profitability.

The loss of any member on our executive management team or our inability to attract and retain highly skilled members of our sales management and marketing teams and engineers could have a material adverse effect on our business, financial condition and results of operations.

Our success depends on the skills, experience and performance of the members of our executive management team and John T. Treace, our founder and chief executive officer, in particular. The individual and collective efforts of these executives will be important as we continue to commercialize our existing products, develop new products and technologies and expand our commercial activities. The loss or incapacity of existing members of our executive management team could have a material adverse effect on our business, financial condition and results of operations if we experience difficulties in hiring qualified successors. We do not maintain “key person” insurance for any of our executives or key employees.

Our commercial, quality and research and development programs and operations depend on our ability to attract and retain highly skilled team members. We may be unable to attract or retain qualified team members. All of our employees are at-will, which means that either we or the employee may terminate his or her employment at any time. The loss of key employees, failure of any key employee to perform, our inability to attract and retain skilled employees, as needed, or our inability to effectively plan for and implement a succession plan for key employees could have a material adverse effect on our business, financial condition and results of operations.

Any future international expansion will subject us to additional costs and risks that may have a material adverse effect on our business, financial condition and results of operations.

Historically, all of our sales have been to customers in the United States. To the extent we enter into international markets in the future, there are significant costs and risks inherent in conducting business in international markets. If we expand, or attempt to expand, into foreign markets, we will be subject to new business risks, in addition to regulatory risks. In addition, expansion into foreign markets imposes additional burdens on our executive and administrative personnel, finance and legal teams, research and marketing teams and general managerial resources.

We have limited experience with regulatory environments and market practices internationally, and we may not be able to penetrate or successfully operate in new markets. We may also encounter difficulty expanding into international markets because of limited brand recognition in certain parts of the world, leading to delayed

acceptance of our products by surgeons and their patients, hospitals, ambulatory surgery centers and payors in these international markets. If we are unable to expand internationally and manage the complexity of international operations successfully, it could have a material adverse effect on our business, financial condition and results of operations. If our efforts to introduce our products into foreign markets are not successful, we may have expended significant resources without realizing the expected benefit. Ultimately, the investment required for expansion into foreign markets could exceed the results of operations generated from this expansion.

Risks Related to Our Intellectual Property

If we are unable to obtain significant patent protection for our products, or if our patents and other intellectual property rights do not adequately protect our products, we may be unable to gain significant market share and be unable to operate our business profitably.

We will rely on patents, trade secrets, copyrights, know-how, trademarks, license agreements and contractual provisions to establish our intellectual property rights and protect our products. These legal means, however, afford only limited protection and may not completely protect our rights.

As of December 31, 2020, our patent portfolio included 21 owned U.S. patents, one licensed U.S. patent, 27 pending U.S. patent applications, three pending international PCT patent applications, and 20 corresponding non-U.S. patent applications. We cannot assure you that our intellectual property position will not be challenged or that all patents for which we have applied will be granted. The validity and breadth of claims in patents involve complex legal and factual questions and, therefore, may be highly uncertain. Uncertainties and risks that we face include the following:

- our pending or future patent applications may not result in the issuance of patents;
- the scope of any existing or future patent protection may not exclude competitors or provide competitive advantages to us;
- our patents may not be held valid or enforceable if subsequently challenged;
- other parties may claim that our products and designs infringe the proprietary rights of others—even if we are successful in defending our patents and proprietary rights, the cost of such litigation may adversely affect our business; and
- other parties may develop similar products, duplicate our products, or design around our patents.

The patent prosecution process is expensive and time-consuming, and we may not be able to file, prosecute, maintain, enforce or license all necessary or desirable patent applications at a reasonable cost or in a timely manner, or in all jurisdictions. We may choose not to seek patent protection for certain innovations and may choose not to pursue patent protection in certain jurisdictions, and under the laws of certain jurisdictions, patents or other intellectual property rights may be unavailable or limited in scope. It is also possible that we will fail to identify patentable aspects of our developments before it is too late to obtain patent protection.

In addition, the laws of foreign jurisdictions may not protect our rights to the same extent as the laws of the United States. For example, most countries outside of the United States do not allow patents for methods of treating the human body. This may preclude us from obtaining method patents outside of the United States having similar scope to those we have obtained or may obtain in the future in the United States. This includes certain key method patents covering the Lapiplasty Procedure. Changes in either the patent laws or interpretation of the patent laws in the United States and other countries may diminish the value of our patents or narrow the scope of our patent protection.

Moreover, we may be subject to a third-party pre-issuance submission of prior art to the U.S. Patent and Trademark Office (USPTO) or patent offices in foreign jurisdictions, or become involved in opposition, derivation, reexamination, *inter partes* review, post-grant review or interference proceedings challenging our

patent rights or the patent rights of others. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate, our patent rights, allow third parties to commercialize our technology and compete directly with us, without payment to us.

The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and our patents may be challenged in the courts or patent offices in the United States and abroad. Such challenges may result in loss of exclusivity or freedom to operate or in patent claims being narrowed, invalidated or held unenforceable, in whole or in part, which could limit our ability to stop others from using or commercializing similar or identical products and techniques, or limit the duration of the patent protection of our technology.

While we are aware of several third-party patents of interests, we do not believe that any of our products infringe any valid claims of patents or other proprietary rights held by others. However, there can be no assurances that we do not infringe any patents or other proprietary rights held by third parties. If our products were found to infringe any proprietary right of another party, we could be required to pay significant damages or license fees to such party and/or cease production, marketing and distribution of those products. Litigation may also be necessary to defend infringement claims of third parties or to enforce patent rights we hold or to protect trade secrets or techniques we own.

We also rely on trade secrets and other unpatented proprietary technology. There can be no assurances that we can meaningfully protect our rights in our unpatented proprietary technology or that others will not independently develop substantially equivalent proprietary products or processes or otherwise gain access to our proprietary technology. We seek to protect our trade secrets and proprietary know-how, in part, with confidentiality agreements with employees and consultants that include customary intellectual property assignment obligations. There can be no assurances, however, that the agreements will not be breached, adequate remedies for any breach would be available or competitors will not discover our trade secrets or independently develop comparable intellectual property.

Obtaining and maintaining patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements.

The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. In addition, periodic maintenance fees, renewal fees, annuity fees and various other government fees on issued patents often must be paid to the USPTO and foreign patent agencies over the lifetime of the patent and/or applications and any patent rights we may obtain in the future. While an unintentional lapse of a patent or patent application can in many cases be cured by payment of a late fee or by other means in accordance with the applicable rules, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. Non-compliance events that could result in abandonment or lapse of a patent or patent application include, but are not limited to, failure to respond to official actions within prescribed time limits, non-payment of fees and failure to properly legalize and submit formal documents. If we fail to maintain the patents and patent applications covering our products, we may not be able to stop a competitor from marketing products that are the same as or similar to our products, which would have a material adverse effect on our business.

Although we are not presently a party to lawsuits or administrative proceedings involving patents or other intellectual property, the possibility exists that we may be in the future. If we were to lose any future intellectual property lawsuits, a court could require us to pay significant damages and/or prevent us from selling our products.

The medical device industry is litigious with respect to patents and other intellectual property rights. Companies in the medical device industry have used intellectual property litigation to gain a competitive advantage.

Although we are not presently a party to lawsuits or administrative proceedings involving patents or other intellectual property, including interference proceedings, post grant review and *inter partes* review before the USPTO or the equivalent foreign patent authority, the possibility exists that we may be in the future. A legal proceeding, regardless of the outcome, could drain our financial resources and divert the time and effort of our management. Protracted litigation to defend or prosecute our intellectual property rights could result in our customers or potential customers deferring or limiting their purchase or use of the affected products until resolution of the litigation.

If we are found to infringe a third party's intellectual property rights, we could be required to obtain a license from such third party to continue selling, developing and marketing our products and techniques. However, we may not be able to obtain any required license on commercially reasonable terms or at all. Even if we were able to obtain a license, it could be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. We could be forced, including by court order, to cease commercializing the infringing technology or product. In addition, we could be found liable for monetary damages, including treble damages and attorneys' fees if we are found to have willfully infringed a patent. A finding of infringement could force us to cease some of our business operations, which could materially harm our business. Claims that we have misappropriated the confidential information or trade secrets of third parties could have a similar negative impact on our business. Intellectual property litigation may lead to unfavorable publicity that harms our reputation and causes the market price of our common shares to decline.

Because competition in our industry is intense, competitors may infringe or otherwise violate our issued patents, patents of our licensors or other intellectual property. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time consuming, and could distract our technical and management personnel from their normal responsibilities. Any claims we assert against perceived infringers could provoke these parties to assert counterclaims or file administrative actions against us alleging that we infringe their patents. In addition, in a patent infringement proceeding, a court may decide that a patent of ours is invalid or unenforceable, in whole or in part, construe the patent's claims narrowly or refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation proceeding or administrative action could put one or more of our patents at risk of being invalidated or interpreted narrowly. Our competitors may assert invalidity on various grounds, including lack of novelty, obviousness or that we were not the first applicant to file a patent application related to our product. We may elect to enter into license agreements in order to settle patent infringement claims or to resolve disputes before litigation, and any such license agreements may require us to pay royalties and other fees that could be significant. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure.

Our competitors, many of which have made substantial investments in patent portfolios, trade secrets, trademarks and competing technologies, may have applied for or obtained, or may in the future apply for or obtain, patents or trademarks that may prevent, limit or otherwise interfere with our ability to make, use, sell and/or export our products or to use our technologies or product names. Moreover, individuals and groups that are non-practicing entities, commonly referred to as "patent trolls," purchase patents and other intellectual property assets for the purpose of making claims of infringement in order to extract settlements. From time to time, we may receive threatening letters, notices or "invitations to license," or may be the subject of claims that our products and business operations infringe or violate the intellectual property rights of others. The defense of these matters can be time consuming, costly to defend in litigation, divert management's attention and resources, damage our reputation and brand and cause us to incur significant expenses or make substantial payments.

If we fail to execute invention assignment agreements with our employees and contractors involved in the development of intellectual property or are unable to protect the confidentiality of our trade secrets, the value of our products and our business and competitive position could be harmed.

In addition to patent protection, we also rely on protection of copyright, trade secrets, know-how and confidential and proprietary information. We generally enter into confidentiality and invention assignment agreements with our employees, consultants and third parties upon their commencement of a relationship with us. However, we may not enter into such agreements with all employees, consultants and third parties who have been involved in the development of our intellectual property. In addition, these agreements may not provide meaningful protection against the unauthorized use or disclosure of our trade secrets or other confidential information, and adequate remedies may not exist if unauthorized use or disclosure were to occur. The exposure of our trade secrets and other proprietary information would impair our competitive advantages and could have a material adverse effect on our business, financial condition and results of operations. In particular, a failure to protect our proprietary rights may allow competitors to copy our products and procedures, which could adversely affect our pricing and market share. Further, other parties may independently develop substantially equivalent know-how and technology.

In addition to contractual measures, we try to protect the confidential nature of our proprietary information using commonly accepted physical and technological security measures. Such measures may not, for example, in the case of misappropriation of a trade secret by an employee or third party with authorized access, provide adequate protection for our proprietary information. Our security measures may not prevent an employee or consultant from misappropriating our trade secrets and providing them to a competitor, and recourse we take against such misconduct may not provide an adequate remedy to protect our interests fully. Unauthorized parties may also attempt to copy or reverse engineer certain aspects of our products that we consider proprietary. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret can be difficult, expensive and time-consuming, and the outcome is unpredictable. Even though we use commonly accepted security measures, trade secret violations are often a matter of state law, and the criteria for protection of trade secrets can vary among different jurisdictions. In addition, trade secrets may be independently developed by others in a manner that could prevent legal recourse by us. While we have agreements with our employees, consultants and third parties that obligate them to assign their inventions to us, these agreements may not be self-executing, not all employees or consultants may enter into such agreements, or employees or consultants may breach or violate the terms of these agreements, and we may not have adequate remedies for any such breach or violation. If any of our intellectual property or confidential or proprietary information, such as our trade secrets, were to be disclosed or misappropriated, or if any such information was independently developed by a competitor, it could have a material adverse effect on our competitive position, business, financial condition, results of operations and prospects.

If our trademarks and trade names are not adequately protected, we may not be able to build name recognition in our markets of interest and our competitive position may be harmed.

We rely on our trademarks, trade names and brand names to distinguish our products from the products of our competitors, and have registered or applied to register many of these trademarks. There can be no assurance that our trademark applications will be approved. Third parties may also oppose our trademark applications or otherwise challenge our use of the trademarks. In the event that our trademarks are successfully challenged, we could be forced to rebrand our products, which could result in loss of brand recognition, and could require us to devote resources to advertising and marketing new brands. Further, there can be no assurance that competitors will not infringe our trademarks or that we will have adequate resources to enforce our trademarks. We also license third parties to use our trademarks. In an effort to preserve our trademark rights, we enter into license agreements with these third parties, which govern the use of our trademarks and require our licensees to abide by quality control standards with respect to the goods and services that they provide under our trademarks. Although we make efforts to monitor the use of our trademarks by our licensees, there can be no assurance that these efforts will be sufficient to ensure that our licensees abide by the terms of their licenses. In the event that our

licensees fail to do so, our trademark rights could be diluted. Any of the foregoing could have a material adverse effect on our competitive position, business, financial condition, results of operations and prospects.

Patent terms may not be sufficient to effectively protect our products and business for an adequate period of time.

Patents have a limited lifespan. In the United States, the natural expiration of a patent is generally 20 years after its first effective non-provisional filing date. Although various extensions may be available, the term of a patent, and the protection it affords, is limited. Even if patents covering our proprietary technologies and their uses are obtained, once the patent has expired, we may be open to competition. In addition, although upon issuance in the United States a patent's term can be extended based on certain delays caused by the USPTO, this extension can be reduced or eliminated based on certain delays caused by the patent applicant during patent prosecution. Given the amount of time required for the development, testing and regulatory review of new products, patents protecting such products might expire before or shortly after such products are commercialized. If we do not have sufficient patent terms to protect our products, proprietary technologies and their uses, our business would be seriously harmed.

Changes in U.S. patent laws may limit our ability to obtain, defend and/or enforce our patents.

Patent reform legislation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents. The Leahy-Smith America Invents Act (Leahy-Smith Act) includes a number of significant changes to U.S. patent law. These include provisions that affect the way patent applications are prosecuted and also affect patent litigation. The USPTO has developed regulations and procedures to govern administration of the Leahy-Smith Act, and many of the substantive changes to patent law associated with the Leahy-Smith Act, and in particular, the first to file provisions, which became effective on March 16, 2013. The first to file provisions limit the rights of an inventor to patent an invention if not the first to file an application for patenting that invention, even if such invention was the first invention. Accordingly, it is not clear what, if any, impact the Leahy-Smith Act will have on the operation of our business.

However, the Leahy-Smith Act and its implementation could increase the uncertainties and costs surrounding the enforcement and defense of our issued patents. For example, the Leahy-Smith Act provides that an administrative tribunal known as the Patent Trial and Appeals Board (PTAB), provides a venue for challenging the validity of patents at a cost that is much lower than district court litigation and on timelines that are much faster. Although it is not clear what, if any, long-term impact the PTAB proceedings will have on the operation of our business, the initial results of patent challenge proceedings before the PTAB since its inception in 2013 have resulted in the invalidation of many U.S. patent claims. The availability of the PTAB as a lower-cost, faster and potentially more potent tribunal for challenging patents could increase the likelihood that our own patents will be challenged, thereby increasing the uncertainties and costs of maintaining and enforcing them.

We may be unable to enforce our intellectual property rights throughout the world.

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 protecting 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 such countries may be inadequate. In addition, changes in the law and legal decisions by courts in the United States and foreign countries may affect our ability to obtain adequate protection for our technology and the enforcement of our intellectual property.

We may be subject to claims that we or our employees have misappropriated the intellectual property of a third party, including trade secrets or know-how, or are in breach of non-competition or non-solicitation agreements with our competitors and third parties may claim an ownership interest in intellectual property we regard as our own.

Many of our employees and consultants were previously employed at or engaged by other medical device companies, including our competitors or potential competitors. Some of these employees, consultants and contractors may have executed proprietary rights, non-disclosure and non-competition agreements in connection with such previous employment. Although we try to ensure that our employees and consultants do not use the intellectual property, proprietary information, know-how or trade secrets of others in their work for us, we may be subject to claims that we or these individuals have, inadvertently or otherwise, misappropriated the intellectual property or disclosed the alleged trade secrets or other proprietary information, of these former employers, competitors or other third parties. Additionally, we may be subject to claims from third parties challenging our ownership interest in or inventorship of intellectual property we regard as our own, for example, based on claims that our agreements with employees or consultants obligating them to assign intellectual property to us are ineffective or in conflict with prior or competing contractual obligations to assign inventions to another employer, to a former employer, or to another person or entity. Litigation may be necessary to defend against claims, and it may be necessary or we may desire to enter into a license to settle any such claim; however, there can be no assurance that we would be able to obtain a license on commercially reasonable terms, if at all. If our defense to those claims fails, in addition to paying monetary damages or a settlement payment, a court could prohibit us from using technologies, features or other intellectual property that are essential to our products, if such technologies or features are found to incorporate or be derived from the trade secrets or other proprietary information of the former employers. An inability to incorporate technologies, features or other intellectual property that are important or essential to our products could have a material adverse effect on our business and competitive position, and may prevent us from selling our products. In addition, we may lose valuable intellectual property rights or personnel. Even if we are successful in defending against these claims, litigation could result in substantial costs and could be a distraction to management. Any litigation or the threat thereof may adversely affect our ability to hire employees or contract with independent sales representatives. A loss of key personnel or their work product could hamper or prevent our ability to commercialize our products, which could materially and adversely affect our business, financial condition, operating results, cash flows and prospects.

Risks Related to Regulatory Matters

We are subject to substantial government regulation that could have a material adverse effect on our business.

Our products are regulated as medical devices. The production and marketing of our products and its ongoing research and development, pre-clinical testing and clinical trial activities are subject to extensive regulation and review by numerous governmental authorities both in the United States and abroad. U.S. and foreign regulations govern the design, development, testing, clinical trials, premarket clearance and approval, safety, marketing and registration of new medical devices, in addition to regulating manufacturing practices, reporting, labeling, relationships with health care professionals and recordkeeping procedures. The regulatory process requires significant time, effort and expenditures to bring our products to market, and we cannot be assured that any of our products will be approved. The regulations to which we are subject are complex and have tended to become more stringent over time. Our failure to comply with applicable regulatory requirements could result in these governmental authorities:

- issuing warning letters or untitled letters;

- imposing fines and penalties on us;
- preventing us from manufacturing or selling our products;
- bringing civil or criminal charges against us;
- delaying the introduction of our new products into the market;
- recalling or seizing our products; or
- withdrawing, suspending or denying approvals or clearances for our products.

Our relationships with customers, physicians and third-party payors are subject to federal and state health care fraud and abuse laws, false claims laws, physician payment transparency laws and other health care laws and regulations. If we or our employees, independent contractors, consultants, commercial partners, or vendors violate these laws we could face substantial penalties.

Our relationships with customers, physicians and third-party payors are subject to federal and state health care fraud and abuse laws, false claims laws, physician payment transparency laws and other health care laws and regulations. In particular, the promotion, sales and marketing of health care items and services is subject to extensive laws and regulations designed to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive and other business arrangements. The U.S. health care laws and regulations that may affect our ability to operate include, but are not limited to:

- the federal Anti-Kickback Statute, which prohibits, among other things, any person or entity from knowingly and willfully, offering, paying, soliciting or receiving any remuneration, directly or indirectly, overtly or covertly, in cash or in kind, to induce, or in return for, the purchasing, leasing, ordering or arranging for the purchase, lease, or order of any item or service reimbursable under Medicare, Medicaid or other federal health care programs. The term “remuneration” has been broadly interpreted to include anything of value. Although there are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution, the exceptions and safe harbors are drawn narrowly. Practices that may be alleged to be intended to induce the purchases or recommendations, include any payments of more than fair market value, may be subject to scrutiny if they do not qualify for an exception or safe harbor. In addition, a person or entity does not need to have actual knowledge of this statute or specific intent to violate it in order to have committed a violation;
- federal civil and criminal false claims laws, including the federal civil False Claims Act, and civil monetary penalty laws, which prohibit, among other things, individuals or entities from knowingly presenting, or causing to be presented, claims for payment or approval from Medicare, Medicaid or other federal government programs that are false or fraudulent or knowingly making a false statement to improperly avoid, decrease or conceal an obligation to pay money to the federal government, including federal health care programs. In addition, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act;
- the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) which created new federal civil and criminal statutes that prohibit knowingly and willfully executing, or attempting to execute, a scheme to defraud any health care benefit program or 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, including private third-party payors and knowingly and willfully falsifying, concealing or covering up by any trick, scheme or device, a material fact or making any materially false, fictitious or fraudulent statements in connection with the delivery of, or payment for, health care benefits, items or services. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;

- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers;
- the federal Physician Payments Sunshine Act, which requires certain manufacturers of drugs, devices, biologicals and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program (with certain exceptions) to report annually to the government information related to payments or other transfers of value made to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors) and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members. Beginning in 2022, such obligations will include payments and other transfers of value provided in the previous year to certain other health care professionals, including physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, anesthesiologist assistants and certified nurse midwives; and
- state and foreign equivalents of each of the health care laws described above, among others, some of which may be broader in scope including, without limitation, state anti-kickback and false claims laws that may apply to sales or marketing arrangements and claims involving health care items or services reimbursed by non-governmental third party payors, including private insurers, or that apply regardless of payor; state laws that require device companies to comply with the industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government; state laws that require device manufacturers to report information related to payments and other transfers of value to physicians and other health care providers, marketing expenditures; and state and local laws requiring the registration of device sales and medical representatives. Greater scrutiny of marketing practices in the medical device industry has resulted in numerous government investigations by various government authorities, and this industry-wide enforcement activity is expected to continue. The shifting regulatory environment, along with the requirement to comply with multiple jurisdictions with different and difficult compliance and reporting requirements, increases the possibility that we may run afoul of one or more laws. The costs to comply with these regulatory requirements are becoming more expensive and will also impact our profitability.

Because of the breadth of these laws and the narrowness of the statutory exceptions and regulatory safe harbors available, it is possible that some of our business activities, patient outreach programs or our arrangements with physicians, independent sales agents and customers could be subject to challenge under one or more of such laws. It is not always possible to identify and deter employee misconduct or business noncompliance, and the precautions we take to detect and prevent inappropriate conduct may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations. Efforts to ensure that our business arrangements will comply with applicable health care laws may involve substantial costs. It is possible that governmental and enforcement authorities will conclude that our business practices may not comply with current or future statutes, regulations or case law interpreting applicable fraud and abuse or other health care laws and regulations.

If we or our employees, agents, independent contractors, consultants, commercial partners and vendors violate these laws, we may be subject to investigations, enforcement actions and/or significant penalties, including the imposition of significant civil, criminal and administrative penalties, damages, disgorgement, monetary fines, imprisonment, possible exclusion from participation in Medicare, Medicaid and other federal health care programs, contractual damages, reputational harm, diminished profits and future earnings, additional reporting requirements and/or oversight if we become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, and curtailment of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

We may not receive, or may be delayed in receiving, the necessary clearances or approvals for our future products or modifications to our current products, and failure to timely obtain necessary clearances or approvals for our future products or modifications to our current products would adversely affect our ability to grow our business.

In the United States, before we can market a new medical device, or a new use of, new claim for or significant modification to an existing product, we must first receive either clearance under Section 510(k) of the Federal Food, Drug, and Cosmetic Act (FDCA) or approval of a premarket approval (PMA), from the FDA, unless an exemption applies. In the 510(k) clearance process, before a device may be marketed, the FDA must determine that a proposed device is "substantially equivalent" to a legally-marketed "predicate" device, which includes a device that has been previously cleared through the 510(k) process, a device that was legally marketed before May 28, 1976 (pre-amendments device), a device that was originally on the U.S. market pursuant to an approved PMA and later down-classified, or a 510(k)-exempt device. To be "substantially equivalent," the proposed device must have the same intended use as the predicate device, and either have the same technological characteristics as the predicate device or have different technological characteristics and not raise different questions of safety or effectiveness than the predicate device. Clinical data are sometimes required to support substantial equivalence. In the process of obtaining PMA approval, the FDA must determine that a proposed device is safe and effective for its intended use based, in part, on extensive data, including, but not limited to, technical, pre-clinical, clinical trial, manufacturing and labeling data. The PMA process is typically required for devices that are deemed to pose the greatest risk, such as life-sustaining, life-supporting or implantable devices. To date, our products have received marketing authorization pursuant to the 510(k) clearance process.

Modifications to products that are approved through a PMA application generally require FDA approval. Similarly, certain modifications made to products cleared through a 510(k) may require a new 510(k) clearance. Both the PMA and the 510(k) clearance process can be expensive, lengthy and uncertain. The FDA's 510(k) clearance process usually takes from three to 12 months, but can last longer. The process of obtaining a PMA is much more costly and uncertain than the 510(k) clearance process and generally takes from one to three years, or even longer, from the time the application is submitted to the FDA. In addition, a PMA generally requires the performance of one or more clinical trials. Despite the time, effort and cost, a device may not be approved or cleared by the FDA. Any delay or failure to obtain necessary regulatory clearances or approvals could harm our business. Furthermore, even if we are granted regulatory clearances or approvals, they may include significant limitations on the indicated uses for the device, which may limit the market for the device.

In the United States, we have obtained clearance of our Lapiplasty System products through the 510(k) clearance process. Any modification to these systems that has not been previously cleared may require us to submit a new 510(k) premarket notification and obtain clearance, or submit a PMA and obtain FDA approval before implementing the change. Specifically, any modification to a 510(k)-cleared device that could significantly affect its safety or effectiveness, or that would constitute a major change in its intended use, design or manufacture, requires a new 510(k) clearance or, possibly, approval of a PMA. The FDA requires every manufacturer to make this determination in the first instance, but the FDA may review any manufacturer's decision. The FDA may not agree with our decisions regarding whether new clearances or approvals are necessary. We have made modifications to 510(k)-cleared products in the past and have determined based on our review of the applicable FDA regulations and guidance that in certain instances new 510(k) clearances or PMA approvals were not required. We may make modifications or add additional features in the future that we believe do not require a new 510(k) clearance or approval of a PMA. If the FDA disagrees with our determination and requires us to submit new 510(k) notifications or PMA applications for modifications to our previously cleared products for which we have concluded that new clearances or approvals are unnecessary, we may be required to cease marketing or to recall the modified product until we obtain clearance or approval, and we may be subject to significant regulatory fines or penalties. If the FDA requires us to go through a lengthier, more rigorous examination for future products or modifications to existing products than we had expected, product introductions or modifications could be delayed or canceled, which could adversely affect our ability to grow our business. The FDA can delay, limit or deny clearance or approval of a device for many reasons, including:

- our inability to demonstrate to the satisfaction of the FDA or the applicable regulatory entity or notified body that our products are safe or effective for their intended uses;
- the disagreement of the FDA or the applicable foreign regulatory body with the design or implementation of our clinical trials or the interpretation of data from pre-clinical studies or clinical trials;
- serious and unexpected adverse device effects experienced by participants in our clinical trials;
- our inability to demonstrate that the clinical and other benefits of the device outweigh the risks;
- the manufacturing process or facilities we use may not meet applicable requirements; and
- the potential for approval policies or regulations of the FDA or applicable foreign regulatory bodies to change significantly in a manner rendering our clinical data or regulatory filings insufficient for clearance or approval.

Failure to comply with post-marketing regulatory requirements could subject us to enforcement actions, including substantial penalties, and might require us to recall or withdraw a product from the market.

Even though we have obtained clearance for our Lapiplasty products in the United States, we are subject to ongoing and pervasive regulatory requirements governing, among other things, the manufacture, marketing, advertising, medical device reporting, sale, promotion, import, export, registration and listing of devices. For example, we must submit periodic reports to the FDA as a condition of 510(k) clearance. These reports include information about failures and certain adverse events associated with the device after its clearance. Failure to submit such reports, or failure to submit the reports in a timely manner, could result in enforcement action by the FDA. Following its review of the periodic reports, the FDA might ask for additional information or initiate further investigation. In addition, any marketing authorizations we are granted are limited to the cleared indications for use. Further, the manufacturing facilities for a product are subject to periodic review and inspection. Subsequent discovery of problems with a product, manufacturer, or manufacturing facility may result in restrictions on the product, manufacturer or manufacturing facility, withdrawal of the product from the market or other enforcement actions.

The regulations to which we are subject are complex and have become more stringent over time. Regulatory changes could result in restrictions on our ability to continue or expand our operations, higher than anticipated costs, or lower than anticipated sales. Plus regulation such as the FDA and other state and foreign regulatory authorities have broad enforcement powers. Our failure to comply with applicable regulatory requirements could result in enforcement action by the FDA, state or foreign regulatory authorities, which may include any of the following sanctions:

- untitled letters or warning letters;
- fines, injunctions, consent decrees and civil penalties;
- recalls, termination of distribution, administrative detention or seizure of our products;
- customer notifications or repair, replacement or refunds;
- operating restrictions or partial suspension or total shutdown of production;
- delays in or refusal to grant our requests for future clearances or approvals or foreign marketing authorizations of new products, new intended uses or modifications to existing products;
- withdrawals or suspensions of our current 510(k) clearances, resulting in prohibitions on sales of our products;
- FDA refusal to issue certificates to foreign governments needed to export products for sale in other countries; and
- criminal prosecution.

Any of these sanctions could result in higher than anticipated costs or lower than anticipated sales and have a material adverse effect on our reputation, business, financial condition and results of operations. In addition, the FDA may change its clearance policies, adopt additional regulations or revise existing regulations or take other actions, which may prevent or delay clearance or approval of our future products under development or impact our ability to modify our currently cleared products on a timely basis. Such policy or regulatory changes could impose additional requirements upon us that could delay our ability to obtain new clearances or approvals, increase the costs of compliance or restrict our ability to maintain our clearances of our current products.

Legislative or regulatory reforms may have a material adverse effect on us.

From time to time, legislation is drafted and introduced in Congress that could significantly change the statutory provisions governing the regulation of medical devices. In addition, the FDA may change its clearance and approval policies, adopt additional regulations or revise existing regulations or take other actions, which may prevent or delay approval or clearance of our future products under development or impact our ability to modify our currently cleared products on a timely basis. Over the last several years, the FDA has proposed reforms to its 510(k) clearance process, and such proposals could include increased requirements for clinical data and a longer review period, or could make it more difficult for manufacturers to utilize the 510(k) clearance process for their products. For example, in November 2018, FDA officials announced steps that the FDA intends to take to modernize the 510(k) premarket notification pathway. Among other things, the FDA announced that it plans to develop proposals to drive manufacturers utilizing the 510(k) pathway toward the use of newer predicates. These proposals include plans to potentially sunset certain older devices that were used as predicates under the 510(k) clearance pathway, and to potentially publish a list of devices that have been cleared on the basis of demonstrated substantial equivalence to predicate devices that are more than 10 years old. In September 2019, the FDA also issued revised final guidance establishing a “Safety and Performance Based Pathway” for “manufacturers of certain well-understood device types” allowing manufacturers to rely on objective safety and performance criteria recognized by the FDA to demonstrate substantial equivalence, obviating the need for manufacturers to compare the safety and performance of their medical devices to specific predicate devices in the clearance process. The FDA has developed and maintains a list of device types appropriate for the “safety and performance based” pathway and will continue to develop product-specific guidance documents that identify the performance criteria and recommended testing methodologies for each such device type, where feasible. Some of these proposals have not yet been finalized or adopted, and the FDA announced that it would seek public feedback before publication of any such proposals, and may work with Congress to implement such proposals through legislation. Accordingly, it is unclear the extent to which any proposals, if adopted, could impose additional regulatory requirements on us that could delay our ability to obtain new 510(k) clearances, increase the costs of compliance, or restrict our ability to maintain our current clearances, or otherwise create competition that may negatively affect our business.

In addition, FDA regulations and guidance are often revised or reinterpreted by the FDA in ways that may significantly affect our business and our products. Any new statutes, regulations or revisions or reinterpretations of existing regulations may impose additional costs or lengthen review times of any future products or make it more difficult to obtain clearance or approval for, manufacture, market or distribute our products. We cannot determine what effect changes in regulations, statutes, legal interpretation or policies, when and if promulgated, enacted or adopted may have on our business in the future. Such changes could, among other things, require additional testing before obtaining clearance or approval; changes to manufacturing methods; recall, replacement or discontinuance of our products; or additional record keeping.

The FDA’s and other regulatory authorities’ policies may change and additional government regulations may be promulgated that could prevent, limit or delay regulatory clearance or approval of our product candidates. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the United States or abroad. For example, the new administration following the 2020 U.S. Presidential Election may impact our business and industry. Namely, the Trump administration took several executive actions, including the issuance of a number of executive orders, that could impose significant

burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities, such as implementing statutes through rulemaking, issuance of guidance and review and approval of marketing applications. It is difficult to predict whether or how these executive actions will be implemented, or whether they will be rescinded and replaced under the Biden administration. The policies and priorities of the incoming administration are unknown and could materially impact the regulations governing our product candidates. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may be subject to enforcement action, and we may not achieve or sustain profitability.

In addition, in response to perceived increases in health care costs in recent years there have been and continue to be proposals by the federal government, state governments, regulators and third-party payors to control these costs and, more generally, to reform the U.S. health care system. Certain of these proposals could limit the prices we will be able to charge for our products or the amount of reimbursement available for our products and could limit the acceptance and availability of our products.

In March 2010, the federal government enacted the ACA. Among other provisions, the ACA established new value-based payment programs, increased funding of comparative effectiveness research, reduced hospital payments for avoidable readmissions and hospital acquired conditions, and pilot programs to evaluate alternative payment methodologies that promote care coordination (such as bundled physician and hospital payments). Additionally, the ACA included a reduction in the annual rate of inflation for Medicare payments to hospitals that began in 2011. Also, Medicare payments to providers are subject to a 2% reduction per fiscal year, effective on April 1, 2013 and, will remain in effect through 2030 unless additional Congressional action is taken. However, due to COVID-19 relief legislation, such reductions have been temporarily suspended from May 1, 2020 through March 31, 2021.

Since its enactment, there have been judicial, executive and Congressional challenges to certain aspects of the ACA, and the U.S. Supreme Court is currently reviewing the constitutionality of the ACA, although it is unclear how the Supreme Court will rule. Although the U.S. Supreme Court has not yet ruled on the constitutionality of the ACA, on January 28, 2021, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through May 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructs certain governmental agencies to review and reconsider their existing policies and rules that limit access to health care, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is unclear how the U.S. Supreme Court ruling, other such litigation, and the health care reform measures of the Biden administration will impact the ACA. There are additional state and federal health care reform measures under consideration that may be adopted in the future which could have a material adverse effect on our industry generally and on our customers. We cannot predict what health care programs and regulations will be ultimately implemented at the federal or state level, or the effect of any future legislation or regulation. However, any regulatory and legal changes that lower reimbursement for our products, increase taxes on our medical devices, increase cost containment pressures on us or others in the health care sector or reduce medical procedure volumes could adversely affect our business, financial condition, results of operations or cash flows.

Our products must be manufactured in accordance with federal and state quality regulations and are subject to FDA inspection, and our failure to comply with these regulations could result in fines, product recalls, product liability claims, limits on future product clearances, reputational damage and other adverse impacts.

The methods used in, and the facilities used for, the manufacture of our products must comply with the FDA's Quality System Regulation (QSR) which is a complex regulatory scheme that covers the procedures and documentation of the design, testing, production, process controls, quality assurance, labeling, packaging, handling, storage, distribution, installation, servicing and shipping of medical devices. Furthermore, we are required to verify that our suppliers maintain facilities, procedures and operations that comply with our quality

standards and applicable regulatory requirements. The FDA enforces the QSR through periodic announced or unannounced inspections of medical device manufacturing facilities, which may include the facilities of subcontractors. Our products are also subject to similar state regulations.

We or our third-party manufacturers may not take the necessary steps to comply with applicable regulations, which could cause delays in the delivery of our products. In addition, failure to comply with applicable FDA requirements or later discovery of previously unknown problems with our products or manufacturing processes could result in, among other things: (i) warning letters or untitled letters; (ii) fines, injunctions or civil penalties; (iii) suspension or withdrawal of approvals or clearances; (iv) customer notifications or repair, replacement, refunds, detention, seizures or recalls of our products; (v) total or partial suspension of production or distribution; (vi) administrative or judicially imposed sanctions; (vii) the FDA's refusal to grant pending or future clearances or approvals for our products; (viii) clinical holds; (ix) refusal to permit the import or export of our products; and (x) criminal prosecution of us or our employees. Any of these actions could significantly and negatively impact supply of our products. If any of these events occurs, our reputation could be harmed, we could be exposed to product liability claims and we could lose customers and suffer reduced revenue and increased costs.

The misuse or off-label use of our products may harm our reputation in the marketplace, result in injuries that lead to product liability suits or result in costly investigations, fines or sanctions by regulatory bodies if we are deemed to have engaged in the promotion of these uses, any of which could be costly to our business.

Our currently marketed products are either Class II medical devices cleared by the FDA for specific indications or they are Class I exempt for general orthopaedic use. For example, our Lapiplasty plating system has been cleared by the FDA for use in stabilization of fresh fractures, revision procedures, joint fusion and reconstruction of small bones of the feet. We train our marketing personnel and direct sales force to not promote our devices for uses outside of the FDA-authorized indications for use, known as "off-label uses." We cannot, however, prevent a physician from using our devices off-label, when in the physician's independent professional medical judgment he or she deems it appropriate. There may be increased risk of injury to patients if physicians attempt to use our devices off-label. Furthermore, the use of our devices for indications other than those cleared by the FDA or approved by any foreign regulatory body (to the extent our products are cleared for use outside the United States in the future) may not effectively treat such conditions, which could harm our reputation in the marketplace among physicians and patients.

If the FDA determines that our promotional materials or training constitute promotion of an off-label use, it could request that we modify our training or promotional materials or subject us to regulatory or enforcement actions, including the issuance or imposition of an untitled letter, which is used for violators that do not necessitate a warning letter, injunction, seizure, civil fine or criminal penalties. We could face similar consequences from action by foreign regulatory bodies if we should offer our products outside the United States. It is also possible that other federal, state or foreign enforcement authorities might take action under other regulatory authority, such as false claims laws, if they consider our business activities to constitute promotion of an off-label use, which could result in significant penalties, including, but not limited to, criminal, civil and administrative penalties, damages, fines, disgorgement, exclusion from participation in government health care programs and the curtailment of our operations.

In addition, physicians may misuse our products or use improper techniques if they are not adequately trained, potentially leading to injury and an increased risk of product liability. If our devices are misused or used with improper technique, we may become subject to costly litigation by our customers or their patients. As described above, product liability claims could divert management's attention from our core business, be expensive to defend and result in sizeable damage awards against us that may not be covered by insurance.

Our products may cause or contribute to adverse medical events or be subject to failures or malfunctions that we are required to report to the FDA, and if we fail to do so, we would be subject to sanctions that could harm our reputation, business, financial condition and results of operations. The discovery of serious safety issues with our products, or a recall of our products either voluntarily or at the direction of the FDA or another governmental authority, could have a negative impact on us.

We are subject to the FDA's medical device reporting regulations, which require us to report to the FDA when we receive or become aware of information that reasonably suggests that one or more of our products may have caused or contributed to a death or serious injury or malfunctioned in a way that, if the malfunction were to recur, it could cause or contribute to a death or serious injury. The timing of our obligation to report is triggered by the date we become aware of the adverse event as well as the nature of the event. We may fail to report adverse events of which we become aware within the prescribed timeframe. We may also fail to recognize that we have become aware of a reportable adverse event, especially if it is not reported to us as an adverse event or if it is an adverse event that is unexpected or removed in time from the use of the product. If we fail to comply with our reporting obligations, the FDA could take action, including warning letters, untitled letters, administrative actions, criminal prosecution, imposition of civil monetary penalties, revocation of our device clearance or approval, seizure of our products or delay in clearance or approval of future products.

The FDA and foreign regulatory bodies have the authority to require the recall of commercialized products in the event of material deficiencies or defects in design or manufacture of a product or in the event that a product poses an unacceptable risk to health. The FDA's authority to require a recall must be based on a finding that there is reasonable probability that the device could cause serious injury or death. We may also choose to voluntarily recall a product if any material deficiency is found. A government-mandated or voluntary recall by us could occur as a result of an unacceptable risk to health, component failures, malfunctions, manufacturing defects, labeling or design deficiencies, packaging defects or other deficiencies or failures to comply with applicable regulations. Product defects or other errors may occur in the future.

Depending on the corrective action we take to redress a product's deficiencies or defects, the FDA may require, or we may decide, that we will need to obtain new clearances or approvals for the device before we may market or distribute the corrected device. Seeking such clearances or approvals may delay our ability to replace the recalled devices in a timely manner. Moreover, if we do not adequately address problems associated with our devices, we may face additional regulatory enforcement action, including FDA warning letters, product seizure, injunctions, administrative penalties or civil or criminal fines.

Companies are required to maintain certain records of recalls and corrections, even if they are not reportable to the FDA. We may initiate voluntary withdrawals or corrections for our products in the future that we determine do not require notification of the FDA. If the FDA disagrees with our determinations, it could require us to report those actions as recalls and we may be subject to enforcement action. A future recall announcement could harm our reputation with customers, potentially lead to product liability claims against us and negatively affect our sales. In addition, we have had in the past, and may in the future, reports of adverse events associated with the Lapiplasty Procedure. While inherent in the medical device and surgical industry, frequent adverse events can lead to reputational harm and negatively affect our sales. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, will require the dedication of our time and capital, distract management from operating our business and may harm our reputation and financial results.

Disruptions at the FDA and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire, retain or deploy key leadership and other personnel, or otherwise prevent new or modified products from being developed, cleared, approved or commercialized in a timely manner or at all, which could negatively impact our business.

The ability of the FDA to review and clear new products can be affected by a variety of factors, including government budget and funding levels, statutory, regulatory and policy changes, the FDA's ability to hire and

retain key personnel and accept the payment of user fees and other events that may otherwise affect the FDA's ability to perform routine functions. Average review times at the FDA have fluctuated in recent years as a result. In addition, government funding of other government agencies that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable. Disruptions at the FDA and other agencies may also slow the time necessary for medical devices or modifications to cleared medical devices to be reviewed by necessary government agencies, which would adversely affect our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities.

Separately, in response to the COVID-19 pandemic, on March 10, 2020 the FDA announced its intention to postpone most inspections of foreign manufacturing facilities, and on March 18, 2020, the FDA temporarily postponed routine surveillance inspections of domestic manufacturing facilities. Subsequently, on July 10, 2020, the FDA announced its intention to resume certain on-site inspections of domestic manufacturing facilities subject to a risk-based prioritization system. The FDA intends to use this risk-based assessment system to identify the categories of regulatory activity that can occur within a given geographic area, ranging from mission critical inspections to resumption of all regulatory activities. Regulatory authorities outside the United States may adopt similar restrictions or other policy measures in response to the COVID-19 pandemic. If a prolonged government shutdown occurs, or if global health concerns continue to prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews, or other regulatory activities, it could significantly impact the ability of the FDA or other regulatory authorities to timely review and process our regulatory submissions, which could have a material adverse effect on business.

The clinical trial process is lengthy and expensive with uncertain outcomes. We have limited data and experience regarding the safety and efficacy of our products. Results of earlier studies may not be predictive of future clinical trial results, or the safety or efficacy profile for such products.

We cannot guarantee our ALIGN3D post-market clinical study, or any other clinical study we may conduct or sponsor in the future, will be successful, and such clinical trials could be lengthy and expensive to conduct. Clinical testing is difficult to design and implement, can take many years, can be expensive and carries uncertain outcomes. Clinical trials must be conducted in accordance with the laws and regulations of the FDA and other applicable regulatory authorities' legal requirements, regulations or guidelines, and are subject to oversight by these governmental agencies and institutional review board at the medical institutions where the clinical trials are conducted. Furthermore, we rely, and in the future may continue to rely upon, on contract research organizations (CROs), and clinical trial sites to ensure the proper and timely conduct of our clinical trials and while we have agreements governing their committed activities, we have limited influence over their actual performance. To the extent our collaborators or the CROs fail to enroll participants for our clinical trials, fail to conduct the study to required good clinical practice standards or are delayed for a significant time in the execution of trials, including achieving full enrollment, we may be affected by increased costs, program delays or both.

The initiation and completion of any of clinical studies may be prevented, delayed or halted for numerous reasons, which could adversely affect the costs, timing or successful completion of our clinical trials.

In addition, disruptions caused by the COVID-19 pandemic may increase the likelihood that we encounter such difficulties or delays in initiating, enrolling, conducting or completing our planned and ongoing clinical trials. Any of these occurrences may significantly harm our business, financial condition and prospects.

Furthermore, patient enrollment in clinical trials and completion of patient follow-up depend on many factors, including the size of the patient population, the nature of the trial protocol, the proximity of patients to clinical sites, the eligibility criteria for the clinical trial, patient compliance, competing clinical trials and clinicians' and patients' perceptions as to the potential advantages of the product being studied in relation to other available therapies, including any new treatments that may be approved for the indications we are investigating.

Actual or perceived failures to comply with applicable data protection, privacy and security laws, regulations, standards and other requirements could adversely affect our business, results of operations and financial condition.

We and our partners may be subject to federal, state and foreign data protection laws and regulations (i.e., laws and regulations that address data privacy and security). In the United States, numerous federal and state laws and regulations, including state data breach notification laws, state health information privacy laws and federal and state consumer protection laws and regulations (e.g., Section 5 of the FTC Act), that govern the collection, use, disclosure and protection of health-related and other personal information could apply to our operations or the operations of our partners. We may also be subject to U.S. federal rules, regulations and guidance concerning data security for medical devices, including guidance from the FDA. In addition, we may obtain health information from third parties (including research institutions from which we obtain clinical trial data) that are subject to privacy and security requirements under HIPAA, as amended. Depending on the facts and circumstances, we could be subject to significant penalties if we obtain, use or disclose individually identifiable health information maintained by a HIPAA-covered entity or business associate in a manner that is not authorized or permitted by HIPAA.

Certain states have also adopted comparable privacy and security laws and regulations, some of which may be more stringent than HIPAA. Such laws and regulations will be subject to interpretation by various courts and other governmental authorities, thus creating potentially complex compliance issues for us and our future customers and strategic partners. In addition, California enacted the California Consumer Privacy Act (CCPA) on June 28, 2018, which went into effect on January 1, 2020. The CCPA creates individual privacy rights for California consumers and increases the privacy and security obligations of entities handling certain personal information. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The CCPA may increase our compliance costs and potential liability, and many similar laws have been proposed at the federal level and in other states. Further, the California Privacy Rights Act (CPRA), recently passed in California. The CPRA will impose additional data protection obligations on covered businesses, including additional consumer rights processes, limitations on data uses, new audit requirements for higher risk data, and opt outs for certain uses of sensitive data. It will also create a new California data protection agency authorized to issue substantive regulations and could result in increased privacy and information security enforcement. The majority of the provisions will go into effect on January 1, 2023, and additional compliance investment and potential business process changes may be required. In the event that we are subject to or affected by HIPAA, the CCPA, the CPRA or other domestic privacy and data protection laws, any liability from failure to comply with the requirements of these laws could adversely affect our financial condition.

In Europe, the European Union General Data Protection Regulation (GDPR) went into effect in May 2018 and imposes strict requirements for processing the personal data of individuals within the European Economic Area (EEA). Companies that must comply with the GDPR face increased compliance obligations and risk, including more robust regulatory enforcement of data protection requirements and potential fines for noncompliance of up to €20 million or 4% of the annual global revenues of the noncompliant company, whichever is greater. Relatedly, following the United Kingdom's withdrawal from the EEA and the European Union, and the expiry of the transition period, companies have to comply with both the GDPR and the GDPR as incorporated into United Kingdom national law, the latter regime having the ability to separately fine up to the greater of £17.5 million or 4% of global turnover. The relationship between the United Kingdom and the European Union in relation to certain aspects of data protection law remains unclear, for example around how data can lawfully be transferred between each jurisdiction, which may expose us to further compliance risk. If we do not comply with our obligations under the GDPR, we could be exposed to the fines discussed above. In addition, we may be the subject of litigation and/or adverse publicity, which could adversely affect our business, results of operations and financial condition.

Further, the Court of Justice of the European Union ruled in July 2020 that the Privacy Shield, used by thousands of companies to transfer data between the European Union and United States, was invalid and could

no longer be used. In September 2020, Switzerland concluded that the Swiss-U.S. Privacy Shield Framework does not provide an adequate level of protection for data transfers from Switzerland to the United States. Alternative transfer mechanisms may be used, including the standard contractual clauses (SCCs), while the authorities interpret the decisions and scope of the invalidated Privacy Shield, but the SCCs have also been called into question in the same ruling that invalidated Privacy Shield. At present, there are few if any viable alternatives to the SCCs, so future developments may necessitate further expenditures on local infrastructure, changes to internal business processes, or may otherwise affect or restrict sales and operations.

Although we work to comply with applicable laws, regulations and standards, our contractual obligations and other legal obligations, these requirements are evolving and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another or other legal obligations with which we must comply. Any failure or perceived failure by us or our employees, representatives, contractors, consultants, collaborators or other third parties to comply with such requirements or adequately address privacy and security concerns, even if unfounded, could result in additional cost and liability to us, damage our reputation and adversely affect our business and results of operations.

Risks Related to This Offering and Ownership of Our Common Stock

There may not be an active trading market for our common stock, which may cause shares of our common stock to trade at a discount from the initial public offering price and make it difficult to sell the shares of common stock you purchase.

Prior to this offering, there has been no public market for our common stock. It is possible that after this offering, an active trading market will not develop or, if developed, that any market will not be sustained, which would make it difficult for you to sell your shares of common stock at an attractive price or at all. The initial public offering price per share of common stock will be determined by agreement among us and the representatives of the underwriters, and may not be indicative of the price at which shares of our common stock will trade in the public market, if any, after this offering.

The market price of our common stock may be volatile, which could result in substantial losses for investors purchasing shares in this offering.

The initial public offering price for our common stock was determined through negotiations with the underwriters. This initial public offering price may differ from the market price of our common stock after the offering. As a result, you may not be able to sell your common stock at or above the initial public offering price. Some of the factors that may cause the market price of our common stock to fluctuate include:

- the impact of COVID-19 or other pandemics on the performance of elective procedures;
- delays or setbacks in the ongoing commercialization of our Lapiplasty System;
- the success of existing or new competitive products or technologies;
- regulatory or legal developments in the United States and other countries;
- developments or disputes concerning patent applications, issued patents or other proprietary rights;
- the recruitment or departure of key personnel;
- the commencement of litigation;
- actual or anticipated changes in estimates as to financial results;
- announcement or expectation of additional financing efforts;
- sales of our common stock by us, our insiders or other stockholders;
- expiration of market standoff or lock-up agreements;

- variations in our financial results or those of companies that are perceived to be similar to us;
- changes in estimates or recommendations by securities analysts, if any, that cover our stock;
- changes in the structure of health care payment systems;
- market conditions in the medical device sectors;
- the seasonality of our business;
- an increase in the rate of returns of our Lapiplasty System Kits or an increase in warranty claims;
- general economic, industry and market conditions; and
- the other factors described in this “Risk Factors” section.

In recent years, the stock market in general, and the market for medical device companies in particular, has experienced significant price and volume fluctuations that have often been unrelated or disproportionate to changes in the operating performance of the companies whose stock is experiencing those price and volume fluctuations. Further, the stock market in general has been highly volatile due to the COVID-19 pandemic and political uncertainty in the United States. Broad market and industry factors may seriously affect the market price of our common stock, regardless of our actual operating performance. These fluctuations may be even more pronounced in the trading market for our stock shortly following this offering. Following periods of such volatility in the market price of a company’s securities, securities class action litigation has often been brought against that company. Because of the potential volatility of our stock price, we may become the target of securities litigation in the future. Securities litigation could result in substantial costs and divert management’s attention and resources from our business.

If our operating and financial performance in any given period does not meet any guidance that we provide to the public, the market price of our common stock may decline.

We may, but are not obligated to, provide public guidance on our expected operating and financial results for future periods. Any such guidance will be comprised of forward-looking statements subject to the risks and uncertainties described in this prospectus and in our other public filings and public statements. Our actual results may not always be in line with or exceed any guidance we have provided, especially in times of economic uncertainty. If, in the future, our operating or financial results for a particular period do not meet any guidance we provide or the expectations of investment analysts, or if we reduce our guidance for future periods, the market price of our common stock may decline. Even if we do issue public guidance, there can be no assurance that we will continue to do so in the future.

If securities analysts do not publish research or reports about our business or if they publish negative evaluations of our stock, the price of our stock could decline.

The trading market for our common stock will rely in part on the research and reports that industry or financial analysts publish about us or our business. We do not currently have and may never obtain research coverage by industry or financial analysts. If no or few analysts commence coverage of us, the trading price of our stock could decrease. Even if we do obtain analyst coverage, if one or more of the analysts covering our business downgrade their evaluations of our stock, the price of our stock could decline. If one or more of these analysts cease to cover our stock, we could lose visibility in the market for our stock, which in turn could cause our stock price to decline.

A significant portion of our total outstanding shares is restricted from immediate resale but may be sold into the market in the near future, which could cause the market price of our common stock to decline significantly, even if our business is doing well.

Sales of a substantial number of shares of our common stock in the public market could occur at any time. These sales, upon the expiration of the market standoff and lock-up agreements, the early release of these agreements or the perception in the market that the holders of a large number of shares of our common stock intend

to sell shares, could reduce the market price of our common stock. After this offering and after giving effect to the automatic conversion of outstanding shares of our Series A convertible preferred stock into shares of our common stock immediately prior to the completion of this offering, we will have shares of our common stock outstanding based on shares of our common stock outstanding as of December 31, 2020. Of these shares, the shares we are selling in this offering may be resold in the public market immediately, unless purchased by our affiliates. The remaining shares, or % of our outstanding shares after this offering, are currently prohibited or otherwise restricted under securities laws, market standoff agreements entered into by our directors, officers and stockholders with us, or lock-up agreements entered into by our stockholders with the underwriters. However, subject to applicable securities law restrictions and excluding shares of restricted stock that will remain unvested, prohibitions and restrictions on the sale of these shares in the public market will be lifted beginning 180 days after the date of this prospectus. J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC may, in their sole discretion, release all or some portion of the shares subject to lock-up agreements at any time and for any reason. Shares issued upon the exercise of stock options outstanding under our equity incentive plans, or pursuant to future awards granted under those plans, will become available for sale in the public market to the extent permitted by the provisions of applicable vesting schedules, any applicable market standoff and lock-up agreements, and Rule 144 and Rule 701 under the Securities Act of 1933, as amended (the Securities Act). See the section titled “Shares Eligible for Future Sale” for additional information.

Moreover, after this offering, holders of an aggregate of million shares of our common stock will have rights, subject to conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We also plan to register all shares of our common stock that we may issue under our equity compensation plans. Once we register these shares, they can be freely sold in the public market upon issuance and once vested, subject to volume limitations applicable to affiliates and the lock-up agreements described in the section titled “Underwriting.” If any of these additional shares are sold, or if it is perceived that they will be sold, in the public market, the market price of our common stock could decline.

We have not paid dividends in the past and do not expect to pay dividends in the future, and, as a result, any return on investment may be limited to the value of our stock.

We have never paid cash dividends and do not anticipate paying cash dividends on our common stock in the foreseeable future. The payment of dividends will depend on our earnings, capital requirements, financial condition, prospects for future earnings and other factors our board of directors may deem relevant. In addition, our term loan agreement limits our ability to, among other things, pay dividends or make other distributions or payments on account of our common stock, in each case subject to certain exceptions. If we do not pay dividends, our stock may be less valuable because a return on your investment will only occur if our stock price appreciates and you then sell our common stock. In addition, our loan agreements limit our ability to pay dividends or make other distributions or payments on account of our common stock, in each case subject to certain exceptions.

If we do raise additional capital, stockholders may be subject to dilution.

If we issue additional shares of our common stock or other equity securities convertible into common stock to fund operations, develop new products, accelerate other strategies, make acquisitions or support other activities, the ownership interests of investors in this offering will be diluted. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of any future offerings. To the extent that we raise additional capital through the sale of equity securities, your ownership interest will be diluted, and the terms may include liquidation or other preferences that adversely affect your rights as a stockholder. The incurrence of indebtedness would result in increased fixed payment obligations and could involve restrictive covenants, such as limitations on our ability to incur additional debt, limitations on our ability to acquire, sell or license intellectual property rights and other operating restrictions that could adversely impact our ability to conduct our business.

Additionally, any future collaborations we enter into with third parties may provide capital in the near term but limit our potential cash flow and revenue in the future. If we raise additional funds through strategic partnerships and alliances and licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies or product candidates, or grant licenses on terms unfavorable to us.

Insiders will continue to have substantial influence over us after this offering, which could limit your ability to affect the outcome of key transactions, including a change of control.

After this offering, our directors, officers, holders of more than 5% of our outstanding stock and their respective affiliates will beneficially own shares representing approximately % of our outstanding common stock, assuming no exercise of the underwriters' option to purchase additional shares and without giving effect to any shares that certain of these holders may make through our directed share program or otherwise. As a result, these stockholders, if they act together, will be able to influence our management and affairs and all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control of our company and might affect the market price of our common stock.

We are an "emerging growth company" and a "smaller reporting company" and, as a result of the reduced disclosure and governance requirements applicable to emerging growth companies and smaller reporting companies, our common stock may be less attractive to investors.

We are an "emerging growth company," as defined in the JOBS Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies, including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. In addition, as an "emerging growth company" the JOBS Act allows us to delay adoption of new or revised accounting pronouncements applicable to public companies until such pronouncements are made applicable to private companies. We have elected to use this extended transition period under the JOBS Act. As a result, our financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to public companies, which may make comparison of our financials to those of other public companies more difficult.

We cannot predict if investors will find our common stock less attractive because we will rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. We may take advantage of these reporting exemptions until we are no longer an emerging growth company. We will remain an emerging growth company until the earlier of (i) the last day of the year following the fifth anniversary of the consummation of this offering, (ii) the last day of the year in which we have total annual gross revenue of at least $1.07 billion, (iii) the last day of the year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act, which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year, or (iv) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period.

Even after we no longer qualify as an "emerging growth company," we may still qualify as a "smaller reporting company," which would allow us to continue to take advantage of many of the same exemptions from disclosure requirements, including, among other things, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, presenting only the two most recent fiscal years of audited financial statements in our Annual Report on Form 10-K and reduced disclosure obligations regarding executive compensation in this prospectus and our periodic reports and proxy statements.

Anti-takeover provisions in our amended and restated certificate of incorporation and bylaws, and Delaware law, could discourage a change in control of our company or a change in our management.

Our amended and restated certificate of incorporation and bylaws, as amended and restated in connection with this offering, will contain provisions that might enable our management to resist a takeover. These provisions include:

- a classified board of directors;
- advance notice requirements applicable to stockholders for matters to be brought before a meeting of stockholders and requirements as to the form and content of a stockholders' notice;
- a supermajority stockholder vote requirement for amending certain provisions of our amended and restated certificate of incorporation and bylaws;
- the right to issue preferred stock without stockholder approval, which could be used to dilute the stock ownership of a potential hostile acquirer;
- allowing a supermajority of stockholders to remove directors only for cause;
- a requirement that the authorized number of directors may be changed only by resolution of the board of directors;
- allowing all vacancies, including newly created directorships, to be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum, except as otherwise required by law;
- eliminate cumulative voting in elections of directors;
- a requirement that our stockholders may only take action at annual or special meetings of our stockholders and not by written consent;
- limiting the forum to Delaware for certain litigation against us; and
- limiting the persons that can call special meetings of our stockholders to our board of directors, the chairperson of our board of directors, the chief executive officer or the president, in the absence of a chief executive officer.

These provisions might discourage, delay or prevent a change in control of our company or a change in our management. The existence of these provisions could adversely affect the voting power of holders of common stock and limit the price that investors might be willing to pay in the future for shares of our common stock. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law (the DGCL), which generally prohibits a Delaware corporation from engaging in any of a broad range of business combinations with any "interested" stockholder for a period of three years following the date on which the stockholder became an "interested" stockholder. See "Description of Capital Stock."

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law.

In addition, as permitted by Section 145 of the DGCL, our amended and restated bylaws to be effective immediately before to the completion of this offering and our indemnification agreements that we have entered into with our directors and officers will provide that:

- We will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law

provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful.

- We may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.
- We are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- We will not be obligated pursuant to our amended and restated bylaws to indemnify a person with respect to proceedings initiated by that person against us or our other indemnitees, except with respect to proceedings authorized by our board of directors or brought to enforce a right to indemnification.
- The rights conferred in our amended and restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons.
- We may not retroactively amend our amended and restated bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for substantially all disputes between us and our stockholders, which could limit our stockholders' abilities to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that the Court of Chancery of the State of Delaware (or, in the event that the Court of Chancery does not have jurisdiction, the federal district court for the District of Delaware or other state courts of the State of Delaware) is the exclusive forum for any derivative action or proceeding brought on our behalf, any action asserting a claim of breach of fiduciary duty, any action asserting a claim against us arising pursuant to the DGCL, our amended and restated certificate of incorporation or our amended and restated bylaws, or any action asserting a claim against us that is governed by the internal affairs doctrine; provided that, the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction; and provided further that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state or federal court sitting in the State of Delaware. Our amended and restated certificate of incorporation and amended and restated bylaws will also provide that the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action against any defendant arising under the Securities Act. Such provision is intended to benefit and may be enforced by us, our officers and directors, employees and agents, including the underwriters and any other professional or entity who has prepared or certified any of this prospectus. Nothing in our amended and restated certificate of incorporation and amended and restated bylaws precludes stockholders that assert claims under the Exchange Act from bringing such claims in state or federal court, subject to applicable law.

We believe these provisions may benefit us by providing increased consistency in the application of Delaware law and federal securities laws by chancellors and judges, as applicable, particularly experienced in resolving corporate disputes, efficient administration of cases on a more expedited schedule relative to other forums and protection against the burdens of multi-forum litigation. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims or make such lawsuits more costly for stockholders, although our stockholders will not be deemed to have

waived our compliance with federal securities laws and the rules and regulations thereunder. Furthermore, the enforceability of similar choice of forum provisions in other companies' certificates of incorporation has been challenged in legal proceedings, and it is possible that a court could find these types of provisions to be inapplicable or unenforceable. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions, and there can be no assurance that such provisions will be enforced by a court in those other jurisdictions. If a court were to find the choice of forum provision that will be contained in our amended and restated certificate of incorporation and amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could seriously harm our business.

We have broad discretion to determine how to use the funds raised in this offering, and may use them in ways that may not enhance our operating results or the price of our common stock.

Our management will have broad discretion over the use of proceeds from this offering, and we could spend the proceeds from this offering in ways our stockholders may not agree with or that do not yield a favorable return, if at all. We currently expect to use the net proceeds of this offering, together with our existing cash and cash equivalents, to expand our sales force and operations, train additional physicians, develop new products, expand direct to patient education and outreach, conduct or sponsor clinical studies and trials, grow our marketing and patient outreach programs and provide for working capital and other general corporate purposes. However, our use of these proceeds may differ substantially from our current plans. If we do not invest or apply the proceeds of this offering in ways that improve our operating results, we may fail to achieve expected financial results, which could cause our stock price to decline.

New investors purchasing our common stock will experience immediate and substantial dilution.

Our initial public offering price is substantially higher than the book value per share of our common stock. If you purchase common stock in this offering, you will incur immediate dilution of $ in net tangible book value per share of common stock, based on an assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus. In addition, the number of shares available for issuance under our stock option plans will increase annually without further stockholder approval. Investors will incur additional dilution upon the exercise of stock options and warrants. See "Dilution."

General Risk Factors

Unfavorable global economic conditions could adversely affect our business, financial condition or results of operations.

Our results of operations could be adversely affected by general conditions in the global economy and in the global financial markets. Furthermore, a severe or prolonged economic downturn, including a recession or depression resulting from the current COVID-19 pandemic or political disruption could result in a variety of risks to our business, including weakened demand for our procedures or products and our ability to raise additional capital when needed on acceptable terms, if at all. A weak or declining economy or political disruption, including any international trade disputes, could also strain our manufacturers or suppliers, possibly resulting in supply disruption, or cause our customers to delay making payments for our potential products. Any of the foregoing could seriously harm our business, and we cannot anticipate all of the ways in which the political or economic climate and financial market conditions could seriously harm our business.

Our operations are vulnerable to interruption or loss due to natural or other disasters, power loss, strikes and other events beyond our control.

A major hurricane, fire or other disaster (such as a major flood, earthquake or terrorist attack) affecting our headquarters or our other facilities, or facilities of our suppliers and manufacturers, could significantly disrupt

our operations, and delay or prevent product shipment or installation during the time required to repair, rebuild or replace our suppliers' and manufacturers' damaged facilities, which delays could be lengthy and costly. If any of our customers' facilities are negatively impacted by a disaster, shipments of our products could be delayed. Additionally, customers may delay purchases of our products until operations return to normal. Even if we are able to quickly respond to a disaster, the ongoing effects of the disaster could create some uncertainty in the operations of our business. Concerns about terrorism, the effects of a terrorist attack or political turmoil could have a negative effect on our operations, those of our suppliers and manufacturers and our customers.

We may seek to grow our business through acquisitions or investments in new or complementary businesses, products or technologies, through the licensing of products or technologies from third parties or other strategic alliances, and the failure to manage acquisitions, investments, licenses or other strategic alliances, or the failure to integrate them with our existing business, could have a material adverse effect on our operating results, dilute our stockholders' ownership, increase our debt or cause us to incur significant expense.

Our success depends on our ability to continually enhance and broaden our product offerings in response to changing clinician and patients' needs, competitive technologies and market pressures. Accordingly, from time to time we may consider opportunities to acquire, make investments in or license other technologies, products and businesses that may enhance our capabilities, complement our existing products and technologies or expand the breadth of our markets or customer base. Potential and completed acquisitions, strategic investments, licenses and other alliances involve numerous risks, including:

- difficulty assimilating or integrating acquired or licensed technologies, products, employees or business operations;
- issues maintaining uniform standards, procedures, controls and policies;
- unanticipated costs associated with acquisitions or strategic alliances, including the assumption of unknown or contingent liabilities and the incurrence of debt or future write-offs of intangible assets or goodwill;
- diversion of management's attention from our core business and disruption of ongoing operations;
- adverse effects on existing business relationships with suppliers, sales agents, health care facilities, surgeons and other health care providers;
- risks associated with entering new markets in which we have limited or no experience;
- potential losses related to investments in other companies;
- potential loss of key employees of acquired businesses; and
- increased legal and accounting compliance costs.

We do not know if we will be able to identify acquisitions or strategic relationships we deem suitable, whether we will be able to successfully complete any such transactions on favorable terms, if at all, or whether we will be able to successfully integrate any acquired business, product or technology into our business or retain any key personnel, suppliers, sales agent, health care facilities, surgeons or other health care providers. Our ability to successfully grow through strategic transactions depends upon our ability to identify, negotiate, complete and integrate suitable target businesses, technologies or products and to obtain any necessary financing. These efforts could be expensive and time-consuming and may disrupt our ongoing business and prevent management from focusing on our operations.

If we pursue any foreign acquisitions, they typically involve unique risks in addition to those mentioned above, including those related to integration of operations across different cultures, languages and legal and regulatory environments, currency risks and the particular economic, political and regulatory risks associated with specific countries.

To finance any acquisitions, investments or strategic alliances, we may choose to issue shares of our common stock as consideration, which could dilute the ownership of our stockholders. If the price of our common stock is low or volatile, we may be unable to consummate any acquisitions, investments or strategic alliances using our common stock as consideration. Additional funds may not be available on terms that are favorable to us, or at all.

The requirements of being a public company may divert our management's attention from our growth strategies and other business concerns.

As a public company, we will be subject to the reporting requirements of the Exchange Act and will be required to comply with the applicable requirements of the Sarbanes-Oxley Act and the Dodd- Frank Wall Street Reform and Consumer Protection Act of 2010, the listing requirements of the Nasdaq Stock Market and other applicable securities rules and regulations. Compliance with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time consuming or costly and increase demand on our systems and resources. Among other things, the Exchange Act requires that we file annual, quarterly and current reports with respect to our business and results of operations and maintain effective disclosure controls and procedures and internal controls over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal controls over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from executing our growth strategies and managing other business concerns and, which could have a material adverse effect on our business, financial condition and results of operations. Although we intend to hire additional employees to comply with these requirements, we may need to hire even more employees in the future, which will increase our costs and expenses. Additionally, as a public company, it will be more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could make it more difficult for us to attract and retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

We will incur significant costs as a result of operating as a public company and our executive management team expects to devote substantial time to public company compliance programs.

As a public company, we will incur significant legal, accounting and other expenses due to our compliance with regulations and disclosure obligations applicable to us, including compliance with the Sarbanes-Oxley Act, as well as rules implemented by the SEC and the Nasdaq Stock Market. Stockholder activism, the current political environment and the current high level of government intervention and regulatory reform may lead to substantial new regulations and disclosure obligations, which may lead to additional compliance costs and impact, in ways we cannot currently anticipate, the manner in which we operate our business. Our executive management team and other personnel will devote a substantial amount of time to these compliance programs and monitoring of public company reporting obligations and as a result of the new corporate governance and executive compensation related rules, regulations and guidelines prompted by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and further regulations and disclosure obligations expected in the future, we will likely need to devote additional time and costs to comply with such compliance programs and rules. These rules and regulations will cause us to incur significant legal and financial compliance costs and will make some activities more time-consuming and costly.

Failure to establish and maintain an effective system of internal controls could result in material misstatements of our financial statements or cause us to fail to meet our reporting obligations or fail to prevent fraud in which case, our stockholders could lose confidence in our financial reporting and the market price of our common stock could decline.

After the closing of this offering, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act and the rules and regulations of the Nasdaq Stock Market. Under Section 404 of the

Sarbanes-Oxley Act, we will be required to furnish a report by our management on our internal control over financial reporting beginning with our second annual report on Form 10-K. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. However, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting until our first annual report required to be filed with the SEC following the date we are no longer an EGC. At such time as we are required to obtain auditor attestation, if we then have a material weakness, we would receive an adverse opinion regarding our internal control over financial reporting from our independent registered accounting firm. To achieve compliance with Section 404 within the prescribed period, we will be engaged in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, including through hiring additional financial and accounting personnel, potentially engage outside consultants and adopt a detailed work plan to assess and document the adequacy of internal control over financial reporting, continue steps to improve control processes as appropriate, validate through testing that controls are functioning as documented, and implement a continuous reporting and improvement process for internal control over financial reporting. During our evaluation of our internal control, if we identify one or more material weaknesses in our internal control over financial reporting, we will be unable to assert that our internal control over financial reporting is effective.

We may in the future discover material weaknesses in our system of internal financial and accounting controls and procedures that could result in a misstatement of our financial statements. If we are unable to remediate future material weaknesses, or otherwise maintain effective internal control over financial reporting, we may not be able to report our financial results accurately, prevent fraud or file our periodic reports in a timely manner, which may adversely affect investor confidence in us and, as a result, our stock price and ability to access the capital markets in the future.

In addition, our internal control over financial reporting will not prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

Furthermore, in connection with the future attestation process by our independent registered public accounting firm, we may encounter problems or delays in completing the implementation of any requested improvements and receiving a favorable attestation. If we cannot favorably assess the effectiveness of our internal control over financial reporting, or if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal controls, our stockholders could lose confidence in our reporting and the market price of our common stock could decline. In addition, we could be subject to sanctions or investigations by the Nasdaq Stock Market, the SEC or other regulatory authorities.

We are subject to U.S. anti-corruption, export control, sanctions and other trade laws and regulations (collectively, the Trade Laws). We can face serious consequences for violations.

We are subject to anti-corruption laws, including the U.S. domestic bribery statute contained in 18 U.S.C. 201, the U.S. Travel Act, and the U.S. Foreign Corrupt Practices Act of 1977, as amended. These anti-corruption laws generally prohibit companies and their employees, agents and intermediaries from authorizing, promising, offering or providing, directly or indirectly, corrupt or improper payments or anything else of value to recipients in the public or private sector. We can be held liable for the corrupt or illegal activities of our agents and intermediaries, even if we do not explicitly authorize or have actual knowledge of such activities. We are also subject to other U.S. laws and regulations governing export controls, as well as economic sanctions and embargoes on certain countries and persons.

Violations of Trade Laws can result in substantial criminal fines and civil penalties, imprisonment, the loss of trade privileges, debarment, tax reassessments, breach of contract and fraud litigation, reputational harm and other consequences. Likewise, any investigation of potential violations of Trade Laws could also have an adverse impact on our reputation, our business, results of operations and financial condition.

We, along with our suppliers, are dependent on various information technology systems, and failures of, interruptions to, or unauthorized tampering of those systems could have a material adverse effect on our business.

We and our suppliers rely extensively on information technology systems to conduct business. These systems include, but are not limited to, ordering and managing materials from suppliers, converting materials to finished products (suppliers), shipping products to customers, processing transactions, summarizing and reporting results of operations, complying with regulatory, legal or tax requirements, providing data security and other processes necessary to manage our business.

Despite the implementation of security measures, our internal computer systems and those of our contractors, consultants and collaborators are vulnerable to damage from cyberattacks, “phishing” attacks, intentional or accidental actions or omissions to act that cause vulnerabilities, computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. Attacks upon information technology systems are increasing in their frequency, levels of persistence, sophistication and intensity, and are being conducted by sophisticated and organized groups and individuals with a wide range of motives and expertise. As a result of the COVID-19 pandemic, we may also face increased cybersecurity risks due to our reliance on internet technology and the number of our employees who are working remotely, which may create additional opportunities for cybercriminals to exploit vulnerabilities. Furthermore, because the techniques used to obtain unauthorized access to, or to sabotage, systems change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures. We may also experience security breaches that may remain undetected for an extended period. If our systems are damaged or cease to function properly due to any number of causes, ranging from catastrophic events to power outages to security breaches, and our business continuity plans do not effectively compensate timely, we may suffer interruptions in our ability to manage operations, and would also be exposed to a risk of loss, including financial assets or litigation and potential liability, which could materially adversely affect our business, financial condition, results of operations and prospects.

We cannot assure you that any limitations of liability provisions in our contracts would be enforceable or adequate or would otherwise protect us from any liabilities or damages with respect to any particular claim relating to a security lapse or breach. While we maintain certain insurance coverage, our insurance may be insufficient or may not cover all liabilities incurred by such attacks. We also cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceeds available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, including our financial condition, operating results and reputation.

We may be unable to obtain adequate insurance coverage.

We presently have general liability, workers’ compensation, directors’ and officers’ and product liability insurance coverage. Although we believe we will be able to maintain such coverage for a reasonable cost and obtain any additional coverages that our business may require, no assurances can be made that we will be able to do so.

Changes in tax laws or regulations that are applied adversely to us or our customers may seriously harm our business.

New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could affect the tax treatment of any of our future domestic and foreign earnings. Any new taxes could adversely affect our domestic and international business operations, and our business and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us.

Our ability to use net operating losses to offset future taxable income may be subject to certain limitations.

Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (Code), if a corporation undergoes an "ownership change," generally defined as a cumulative change of more than 50 percentage points (by value) in its equity ownership by certain stockholders over a three-year period, the corporation's ability to use its pre-change NOL carryforwards and other pre-change tax attributes (such as research tax credits) to offset its post-change income or taxes may be limited. Based upon our analysis as of December 31, 2020, we have determined that we do not expect these limitations to impair our ability to use our NOLs prior to expiration. However, if changes in our ownership occur in the future, our ability to use our NOLs may be further limited. For these reasons, we may not be able to utilize a material portion of the NOLs, even if we achieve profitability.

SPECIAL NOTES REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements concerning our business, operations and financial performance and condition, as well as our plans, objectives and expectations for our business, operations and financial performance and condition. Any statements contained herein that are not statements of historical facts may be deemed to be forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as “anticipate,” “assume,” “believe,” “contemplate,” “continue,” “could,” “due,” “estimate,” “expect,” “goal,” “intend,” “may,” “objective,” “plan,” “predict,” “potential,” “positioned,” “seek,” “should,” “target,” “will,” “would” and other similar expressions that are predictions of or indicate future events and future trends, or the negative of these terms or other comparable terminology.

These forward-looking statements include, but are not limited to, statements about:

- the expected use of our products by physicians;
- the expected growth of our business and our organization;
- our expected uses of the net proceeds from this offering and our existing cash and cash equivalents;
- our expectations regarding government and third-party payor coverage and reimbursement;
- our ability to retain and recruit key personnel, including the continued development of a sales and marketing infrastructure;
- our ability to obtain an adequate supply of materials and components for our products from our third-party suppliers, most of whom are single-source suppliers;
- our plans and expected timeline related to our products, or developing new products, to address additional indications or otherwise;
- our ability to obtain, maintain and expand regulatory clearances for our products and any new products we create;
- our ability to manufacture sufficient quantities of our products with sufficient quality;
- our ability to obtain and maintain intellectual property protection for our products;
- our ability to expand our business into new geographic markets;
- our compliance with extensive Nasdaq requirements and government laws, rules and regulations both in the United States and internationally;
- our estimates of our expenses, ongoing losses, future revenue, capital requirements and our need for, or ability to obtain, additional financing;
- our expectations regarding the time during which we will be an emerging growth company under the JOBS Act;
- our ability to identify and develop new and planned products and/or acquire new products;
- the effect of the COVID-19 pandemic and the end of the COVID-19 pandemic on our business;
- developments and projections relating to our competitors or our industry; and
- our plans to conduct further clinical trials.

We believe that it is important to communicate our future expectations to our investors. However, there may be events in the future that we are not able to accurately predict or control and that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. These forward-looking statements are based on management’s current expectations, estimates, forecasts and projections about our business and the industry in which we operate and management’s beliefs and assumptions and are not guarantees

of future performance or development and involve known and unknown risks, uncertainties and other factors that are in some cases beyond our control. As a result, any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. Factors that may cause actual results to differ materially from current expectations include, among other things, those listed under “Risk Factors” and elsewhere in this prospectus. Potential investors are urged to consider these factors carefully in evaluating the forward-looking statements.

These forward-looking statements speak only as of the date of this prospectus. Except as required by law, we assume no obligation to update or revise these forward-looking statements for any reason, even if new information becomes available in the future. You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances reflected in the forward-looking statements will be achieved or occur. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations.

You should read this prospectus and the documents that we reference in this prospectus and have filed with the SEC as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, levels of activity, performance and events and circumstances may be materially different from what we expect.

MARKET, INDUSTRY AND OTHER DATA

This prospectus contains estimates and information concerning our industry, including market size and growth rates of the markets in which we participate, that are based on industry publications and reports. We relied on industry, market data, peer-reviewed journals, formal presentations at medical society meetings and other sources, including market studies from IBM Watson and iData Research, Inc. We also rely on our own research and estimates in this prospectus. In some cases, we do not expressly refer to the sources from which this data is derived. This information involves a number of assumptions and limitations, and you are cautioned not to give undue weight to these estimates. We have not independently verified the accuracy or completeness of the data contained in these industry publications and reports. We also rely on independent third-party sources for procedure data in the United States, as well as publicly available data.

Information that is based on estimates, forecasts, projections, market research or similar methodologies is inherently subject to uncertainties and actual events or circumstances may differ materially from events and circumstances that are assumed in this information, including those described in the section titled “Risk Factors.” These and other factors could cause results to differ materially from those expressed in these publications and reports.

DIVIDEND POLICY

We have never declared or paid, and do not anticipate declaring or paying, any cash dividends on our common stock. We do not anticipate paying any dividends in the foreseeable future, and we currently intend to retain all available funds and any future earnings for use in the operation of our business, to finance the growth and development of our business and for future repayment of debt. Future determinations as to the declaration and payment of dividends, if any, will be at the discretion of our board of directors and will depend on then-existing conditions, including our operating results, financial condition, contractual restrictions, capital requirements, business prospects and other factors our board of directors may deem relevant. In addition, our loan agreements limit our ability to pay dividends or make other distributions or payments on account of our common stock, in each case subject to certain exceptions.

USE OF PROCEEDS

We estimate that the net proceeds from the sale of shares of common stock that we are selling in this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any proceeds from the sale of shares of common stock sold by the selling stockholders.

A $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the net proceeds to us from this offering by $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, an increase or decrease of 1.0 million shares in the number of shares of common stock offered would increase or decrease, as applicable, the net proceeds to us from this offering by $ million, assuming the initial public offering price remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The principal purposes of this offering are to obtain additional capital to support our operations, establish a public market for our common stock and facilitate our future access to the public capital markets.

We currently intend to use the net proceeds from this offering, together with our existing cash and cash equivalents, to expand our sales force and operations, train additional physicians, develop new products, expand direct to patient education and outreach, conduct or sponsor clinical studies and trials, grow our marketing and patient outreach programs and the remainder, if any, to provide for working capital and other general corporate purposes.

We may use a portion of the new net proceeds to acquire complementary products, technologies, intellectual property or businesses; however, we currently do not have any agreements to complete any such transactions and are not involved in negotiations regarding such transactions.

Based upon our current operating plan, we believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will enable us to fund our operating expenses and capital expenditure requirements for at least the next months from the date of this offering. This expected use of the net proceeds from this offering represents our intentions based on our current plans and business conditions, which could change in the future as our plans and business conditions evolve.

Our management will have broad discretion over the use of the net proceeds from this offering, and our investors will be relying on the judgment of our management regarding the application of the net proceeds of this offering. Due to the uncertainties inherent in the ongoing commercialization and development of the Lapiplasty System, it is difficult to estimate with certainty the exact amounts of the net proceeds from this offering that may be used for the above purposes. The amounts we actually expend in these areas, and the timing thereof, may vary significantly from our current intentions and will depend upon a number of factors, including future sales growth, success of research and product development efforts, cash generated from future operations and actual expenses to operate our business.

Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in short-term, investment grade, interest bearing instruments, money market funds, certificates of deposit, commercial paper and U.S. government securities.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization as of December 31, 2020:

- an actual basis;
- a pro forma basis, giving effect to (i) the automatic conversion of all outstanding shares of our Series A convertible preferred stock into an aggregate of shares of our common stock, which includes the conversion of 5,000,000 shares of our Series A convertible preferred stock outstanding and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock, assuming a conversion date of , 2021, as agreed between us and the requisite holders of our Series A convertible preferred stock and (ii) the filing and effectiveness of our amended and restated certificate of incorporation, in each case, immediately prior to the completion of this offering; and
- a pro forma as adjusted basis, giving effect to (i) the pro forma adjustments described above and (ii) the sale and issuance of shares of common stock by us in this offering, at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

You should read this table together with the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes thereto included elsewhere in this prospectus.

	As of December 31, 2020		
	Actual	Pro Forma	Pro Forma As Adjusted
	(unaudited) (in thousands, except share and per share data)		
Cash and cash equivalents	$18,079	$	$
Long-term debt	29,189		
Series A convertible preferred stock, $0.001 par value, 5,000,000 shares authorized, issued and outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	7,935		
Stockholders' equity (deficit):			
Preferred stock, $0.001 par value; no shares authorized, issued and outstanding, actual; shares authorized and no shares issued and outstanding pro forma and pro forma as adjusted	—		
Common stock, $0.001 par value; 50,000,000 shares authorized, shares issued and outstanding, actual; shares authorized, pro forma and pro forma as adjusted, shares issued and outstanding, pro forma and pro forma as adjusted	29		
Additional paid-in capital	14,166		
Accumulated deficit	(21,353)		
Total stockholders' equity (deficit)	776		
Total capitalization	$29,965	$	$

A $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the pro forma as adjusted amount of each of our cash and cash equivalents, additional paid-in capital, total stockholders' equity (deficit) and total capitalization by $ million, assuming that the number of

shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, an increase or decrease of 1.0 million shares in the number of shares of common stock offered would increase or decrease, as applicable, each of our cash and cash equivalents, additional paid-in capital, total stockholders' equity (deficit) and total capitalization by $ million, assuming the initial public offering price remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters' option to purchase additional shares from us is exercised in full, our pro forma as adjusted cash and cash equivalents, additional paid-in capital, total stockholders' equity (deficit), and total capitalization as of December 31, 2020, would be $ million, $ million, $ million, and $ million, respectively.

The number of shares of common stock issued and outstanding, pro forma and pro forma as adjusted in the table above is based on shares of common stock outstanding as of December 31, 2020 (assuming the automatic conversion of all of our outstanding shares of Series A convertible preferred stock as of December 31, 2020 and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock, assuming a conversion date of , 2021 as agreed between us and the requisite holders of our Series A convertible preferred stock, into an aggregate of shares of our common stock prior to the completion of this offering), and excludes:

- 6,042,544 shares of our common stock issuable upon the exercise of options outstanding as of December 31, 2020, with a weighted-average exercise price of $2.43 per share;
- 382,500 shares of our commons stock issuable upon the exercise of options granted subsequent to December 31, 2020, with a weighted-average exercise price of $9.40 per share;
- 533,332 shares of our common stock issuable upon the exercise of warrants outstanding as of December 31, 2020, with a weighted-average exercise price of $5.38 per share;
- shares of common stock reserved for future grants under our 2014 Stock Option Plan, which shares will be added to the shares to be reserved under our 2021 Plan, which will become effective immediately before the effective date of this registration statement and shares of common stock reserved for future grants under our 2021 Plan, as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan; and
- shares of our common stock reserved for issuance pursuant to future awards under our ESPP, as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan, which will become effective immediately prior to the completion of this offering.

DILUTION

If you invest in our common stock in this offering, your interest will be diluted to the extent of the difference between the initial public offering price per share of our common stock in this offering and the pro forma as adjusted net tangible book value per share of our common stock immediately after this offering.

As of December 31, 2020, our historical net tangible book value (deficit) was $0.8 million, or $0.03 per share of common stock. Historical net tangible book value (deficit) per share represents our total tangible assets (total assets less deferred offering costs) less total liabilities, less Series A convertible preferred stock, divided by the number of our shares of common stock outstanding as of December 31, 2020.

As of December 31, 2020, our pro forma net tangible book value (deficit) was $ million, or $ per share of common stock. Pro forma net tangible book value before the issuance and sale of shares in this offering represents the amount of our total tangible assets (total assets less deferred offering costs) reduced by the amount of our total liabilities and divided by the total number of shares of our common stock outstanding as of December 31, 2020, assuming the automatic conversion of all of our outstanding shares of Series A convertible preferred stock into shares of our common stock immediately prior to the completion of this offering.

After giving further effect to the sale of shares of our common stock in this offering at the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, net of actual payments of offering expenses of $, our pro forma as adjusted net tangible book value as of December 31, 2020 would have been $ million, or $ per share. This amount represents an immediate increase in pro forma as adjusted net tangible book value of $ per share to our existing stockholders and an immediate dilution of $ per share to investors purchasing shares in this offering. We determine dilution by subtracting the pro forma as adjusted net tangible book value per share after this offering from the amount of cash that a new investor paid for a share of common stock.

The following table illustrates this dilution:

Assumed initial public offering price per share		$
Historical net tangible book value (deficit) per share as of December 31, 2020	$0.03	
Pro forma increase in historical net tangible book value per share attributable to the pro forma transactions described above		
Pro forma net tangible book value per share as of December 31, 2020		
Increase in pro forma net tangible book value per share attributable to investors purchasing shares in this offering		
Pro forma as adjusted net tangible book value per share after this offering		
Dilution per share to investors in this offering		$

A $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus, would increase or decrease, as applicable, the total consideration paid by investors purchasing shares in this offering by $ million, or approximately $ per share, and would decrease or increase, as applicable, dilution to investors in this offering by approximately $ per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, an increase or decrease of 1.0 million shares in the number of shares of common stock offered would increase or decrease, as applicable, the total

consideration paid by investors purchasing shares in this offering by $ million, or approximately $ per share, and would decrease or increase, as applicable, dilution to investors in this offering by approximately $ per share, assuming the initial public offering price remains the same, after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

An increase of 1.0 million in the number of shares of common stock offered would increase our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, assuming the initial public offering price remains the same, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, a decrease of 1.0 million in the number of shares of common stock offered would decrease our pro forma as adjusted net tangible book value by $ per share and the dilution per share to new investors in this offering by $ per share, assuming the initial public offering price remains the same, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

Except as otherwise indicated, the above discussion and tables assume no exercise of the underwriters' option to purchase additional shares of common stock from the selling stockholders. If the underwriters exercise their option to purchase additional shares in full, our existing stockholders would own % and our new investors would own % of the total number of shares of common stock outstanding upon the completion of this offering.

Sales by the selling stockholders in this offering will cause the number of shares held by existing stockholders to be reduced to shares, or % of the total number of shares of our common stock outstanding following the completion of this offering, and will increase the number of shares held by new investors to shares, or % of the total number of shares outstanding following the completion of this offering.

The dilution information discussed above is illustrative only and may change based on the actual initial public offering price and other terms of this offering.

The following table summarizes, as of December 31, 2020, on a pro forma as adjusted basis as described above, the difference between existing stockholders and new investors with respect to the number of shares of common stock purchased from us, the total consideration paid to us, and the average price per share paid, before deducting estimated underwriting discounts and commissions and estimated offering expenses:

	Shares Purchased		Total Consideration		Weighted-Average Price Per Share
	Number	Percent	Amount	Percent	
Existing stockholders(1)		%	$	%	$
New investors					$
Total		100.0%	$	100.0%	

(1) The presentation in this table regarding ownership by existing stockholders does not give effect to any purchases that existing stockholders may make through our directed share program or otherwise purchase in this offering.

The foregoing tables and calculations (other than the historical net tangible book value calculation) are based on shares of common stock outstanding, (assuming the automatic conversion of all of our outstanding shares of Series A convertible preferred stock as of December 31, 2020 and shares of common stock converted from the accrued and unpaid dividends on the Series A convertible preferred stock assuming a conversion date of , 2021 as agreed between us and the requisite holders of our Series A convertible preferred stock, into an aggregate of shares of our common stock prior to the completion of this offering), and excludes:

- 6,042,544 shares of our common stock issuable upon the exercise of options outstanding as of December 31, 2020, with a weighted-average exercise price of $2.43 per share;

- 382,500 shares of our common stock issuable upon the exercise of options granted subsequent to December 31, 2020, with a weighted-average exercise price of $9.40 per share;
- 533,332 shares of common stock issuable upon the exercise of warrants outstanding as of December 31, 2020, with a weighted-average exercise price of $5.38 per share;
- shares of common stock reserved for future grants under our 2014 Stock Option Plan, which shares will be added to the shares to be reserved under our 2021 Plan, which will become effective immediately before the effective date of this registration statement and shares of common stock reserved for future grants under our 2021 Plan, as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan; and
- shares of our common stock reserved for issuance pursuant to future awards under our ESPP, as well as any automatic increases in the number of shares of our common stock reserved for future issuance under this plan, which will become effective immediately prior to the completion of this offering

To the extent that any outstanding options or warrants to purchase shares of our common stock with an exercise price per share that is less than the as adjusted net tangible book value per share, before giving effect to the issuance and sale of shares in this offering, are exercised or new awards are granted under our equity compensation plans, there will be further dilution to investors participating in this offering. In addition, we may choose to raise additional capital due to market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the issuance of these securities could result in further dilution to our stockholders.

SELECTED FINANCIAL DATA

The following tables set forth our selected financial data for the periods and as of the dates indicated. We have derived the selected statements of operations and comprehensive loss data for the years ended December 31, 2019 and December 31, 2020 and the selected balance sheet data as of December 31, 2019 and December 31, 2020 from our audited financial statements included elsewhere in this prospectus. You should read this data together with our financial statements and related notes thereto included elsewhere in this prospectus and the information in the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations." The selected financial data included in this section are not intended to replace the audited financial statements and related notes thereto included elsewhere in this prospectus and are qualified in their entirety by the audited financial statements and related notes thereto included elsewhere in this prospectus. Our historical results are not necessarily indicative of our future results.

	Year Ended December 31,	
	2019	2020
Statements of Operations and Comprehensive Loss Data:	(in thousands, except share and per share data)	
Revenue	$ 39,416	$ 57,365
Cost of goods sold	7,631	12,470
Gross profit	31,785	44,895
Operating expenses:		
Sales and marketing	25,786	31,654
Research and development	5,070	5,847
General and administrative	4,464	6,539
Total operating expenses	35,320	44,040
Income (loss) from operations	(3,535)	855
Interest and other income (expense), net	111	(1,746)
Interest expense	(841)	(2,777)
Interest and other expense, net	(730)	(4,523)
Net loss and comprehensive loss	(4,265)	(3,668)
Series A convertible preferred stock cumulative and undeclared dividends	(640)	(640)
Net loss attributable to common stockholders	$ (4,905)	$ (4,308)
Net loss per share attributable to common stockholders, basic and diluted (1)	$ (0.18)	$ (0.16)
Weighted-average common shares used in computing net loss per share attributable to common stockholders, basic and diluted(1)	27,597,463	27,715,129

(1) See Note 11 to our financial statements included elsewhere in this process for further information on the calculation of net loss per share attributable to common stockholders.

	As of December 31,	
	2019	2020
Balance Sheet Data:	(in thousands)	
Cash and cash equivalents	$ 12,139	$ 18,079
Working capital(1)	21,238	29,380
Total assets	29,716	41,807
Long-term liabilities	19,233	29,189
Series A convertible preferred stock	7,935	7,935
Additional paid-in capital	12,884	14,166
Accumulated deficit	(17,686)	(21,353)
Total stockholders' equity (deficit)	29,716	41,807

(1) We define working capital as current assets less current liabilities. See our financial statements and related notes thereto included elsewhere in this prospectus for further details regarding our current assets and current liabilities.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with the section titled "Selected Financial Data" and our financial statements and related notes thereto included elsewhere in this prospectus. This discussion and other parts of this prospectus contain forward-looking statements that involve risks and uncertainties, such as statements of our plans, objectives, expectations and intentions that are based on the beliefs of our management, as well as assumptions made by, and information currently available to, our management. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in the section titled "Risk Factors." Please also see the section titled "Special Note Regarding Forward-Looking Statements."

Overview

We are a commercial-stage orthopaedic medical device company driving a paradigm shift in the surgical treatment of *Hallux Valgus* (commonly known as bunions). We have pioneered our proprietary Lapiplasty 3D Bunion Correction System—a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery. Although bunions are deformities typically caused by an unstable joint in the middle of the foot that leads to a three-dimensional (3D) misalignment in the foot's anatomical structure, the majority of traditional surgical approaches focus on correcting the deformity from a two-dimensional (2D) perspective and therefore fail to address the root cause of the disorder. To effectively restore the normal anatomy of bunion patients and improve clinical outcomes, we believe addressing the root cause of the bunion is critical and have developed the Lapiplasty System to correct the deformity across all three anatomic dimensions. Our mission is to be the leader in the surgical treatment of bunions by establishing the Lapiplasty System as the standard of care.

We were formed in 2013 and since receiving 510(k) clearance for the Lapiplasty System in March 2015, we have sold more than 25,000 Lapiplasty Procedure Kits in the United States. We market and sell our Lapiplasty System to physicians, surgeons, ambulatory surgery centers and hospitals. The Lapiplasty Procedure can be performed in either hospital outpatient or ambulatory surgery centers settings, and utilizes existing, well-established reimbursement codes. We currently market and sell the Lapiplasty System through a combination of a direct employee sales force and independent sales agents across 98 territories in the United States. As of December 31, 2020, we had 34 direct sales representatives, eight regional sales vice presidents who are responsible for managing the sales representatives and 59 independent sales agents. In 2020, employee sales representatives generated approximately 35% of revenues while approximately 65% of revenues came through independent sales agents.

We currently leverage third-party manufacturing relationships to ensure low cost production while maintaining a capital efficient business model. We have no long-term supply contracts and multiple sources of supply for critical components of the Lapiplasty System. Our supply agreements do not have minimum manufacturing or purchase obligations. As such, we have no obligations to buy any given quantity of products, and our suppliers have no obligation to sell us or to manufacture for us any given quantity of our products or components for our products. In most cases, we have redundant manufacturing capabilities for each of our products. To date, we have not experienced any significant difficulty obtaining our products or components for our products necessary to meet demand, and we have only experienced limited instances where our suppliers had difficulty supplying products by the requested delivery date. We believe manufacturing capacity is sufficient to meet market demand for our products for the foreseeable future.

We have experienced considerable growth since we began commercializing our products in the United States in late 2015. The number of Lapiplasty Procedure Kits sold increased from 7,714 for 2019 to 11,113 for 2020, representing growth of 44%, despite the impact of COVID-19 on limiting the performance of elective

procedures in 2020. Correspondingly, our revenue increased from $39.4 million for 2019 to $57.4 million for 2020, representing growth of 46% and our net losses were $4.3 million and $3.7 million for 2019 and 2020, respectively.

Our primary sources of capital have been private placements of common stock and convertible preferred stock, debt financing agreements and revenue from the sale of our products. As of December 31, 2020, we had cash and cash equivalents of $18.1 million, an accumulated deficit of $21.4 million, $30.0 million of principal outstanding under our term loan agreement and $1.8 million in borrowings outstanding from the Paycheck Protection Program (PPP) loan program under the Coronavirus Aid Relief and Economic Recovery Act (CARES Act), which was repaid in March 2021. We believe that our existing cash and cash equivalents, available debt borrowings and expected revenues will be sufficient to meet our capital requirements and fund our operations for at least the next 12 months. Based upon our current operating plan, we believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will enable us to fund our operating expenses and capital expenditure requirements for at least the next months from the date of this offering.

We expect our expenses will increase for the foreseeable future, in particular as we to continue to make substantial investments in sales and marketing, and product development. Moreover, we expect to incur additional expenses as a result of operating as a public company, including legal, accounting, insurance, compliance with the rules and regulations of the SEC and those of any stock exchange on which our securities are traded, investor relations, and other administrative and professional services expenses. As a result of these and other factors, we may require or otherwise decide to incur additional financing to fund our operations and planned growth. We may seek to raise any necessary additional capital through public or private equity offerings or debt financings, credit or loan facilities or a combination of one or more of these or other funding sources.

Key Business Metric

We regularly review a number of operating and financial metrics, including the number of Lapiplasty Procedure Kits sold, the number of active surgeons using the Lapiplasty System and utilization rate, to evaluate our business, measure our performance, identify trends affecting our business, formulate our business plan and make strategic decisions.

The following table lists the number of Lapiplasty Procedure Kits sold, number of active surgeons and utilization rate in each of the three-month periods as indicated:

	Three Months Ended							
	Mar. 31, 2019	June 30, 2019	Sept. 30, 2019	Dec. 31, 2019	Mar. 31, 2020	June 30, 2020	Sept. 30, 2020	Dec. 31, 2020
Number of Lapiplasty Procedure Kits sold	1,177	1,521	1,721	3,295	2,187	1,535	2,782	4,609
Active surgeons(1)	635	757	848	997	1,044	1,057	1,133	1,275
Utilization rate(2)	6.5	6.6	7.0	7.7	7.9	8.3	8.6	8.7

(1) We define the number of active surgeons as the number of surgeons that performed at least one procedure using the Lapiplasty System in the trailing twelve-month period.
(2) We define utilization rate as the number of Lapiplasty Procedure Kits sold divided by the number of active surgeons.

We believe that the number of Lapiplasty Procedure Kits sold, number of active surgeons using the Lapiplasty System and utilization rate are useful indicators of our ability to drive adoption of the Lapiplasty System and generate revenue and are helpful in tracking the progress of our business. While we believe these metrics are representative of our current business, we anticipate these metrics may be substituted for additional or different metrics as our business grows.

Factors Affecting Our Business

We believe that our financial performance has been and in the foreseeable future, will continue to depend on many factors, including those described below and in the section titled "Risk Factors."

Adoption of the Lapiplasty System

The growth of our business depends on our ability to gain broader acceptance of the Lapiplasty System by successfully marketing and distributing the Lapiplasty System and ancillary products. We currently have approval at over 1,000 facilities across the United States and plan to continue to increase access by convincing even more surgeons and facility administrators that our products are superior alternatives to traditional products used in bunion surgical procedures. While surgeon adoption of the Lapiplasty Procedure remains critical to driving procedure growth, hospital and ambulatory surgery center facility approvals are necessary for both existing and future surgeon customers to access our products. To facilitate greater access to our products and drive future sales growth, we intend to continue educating hospitals and facility administrators on the differentiated benefits associated with the Lapiplasty System, supported by our robust portfolio of clinical data. If we are unable to successfully commercialize our Lapiplasty System, we may not be able to generate sufficient revenue to achieve or sustain profitability. In the near term, we expect we will continue to operate at a loss and we anticipate we will finance our operations principally through offerings of our capital stock and by incurring debt. If we are unable to raise adequate additional capital, we will be unable to maintain our commercialization efforts and our revenues could decline.

Investments in Innovation and Growth

We expect to continue to focus on long-term revenue growth through investments in our business. In sales and marketing, we are also dedicating meaningful resources to expand our sales force and management team in the United States. We are hiring additional direct sales representatives and employee field sales management to strategically access more regions with high densities of prospective patients and by focusing the efforts of our independent sales channel on our products. In research and development, our team and our Surgeon Advisory Board are continually working on next-generation innovations of the Lapiplasty System and related products. In addition to expanding our Lapiplasty offerings with products like the Lapiplasty Mini-Incision System, we are continually exploring opportunities to advance our core Lapiplasty System instrumentation and implants to further improve surgical efficiency, enhance reproducibility of outcomes and speed surgical recovery for patients. We are also pursuing the development and potential commercialization, if cleared, of new products to address ancillary surgical procedures performed routinely in connection with the Lapiplasty Procedure. Moreover, in general and administrative, we expect to continue to hire personnel and expand our infrastructure to both drive and support our anticipated growth and operations as a public company. Accordingly, in the near term, we expect these activities to increase our net losses, but in the longer term we anticipate they will positively impact our business and results of operations.

Seasonality

We have experienced and expect to continue to experience seasonality in our business, with higher sales volumes in the fourth calendar quarter and lower sales volumes in the first calendar quarter. Our sales volumes in the fourth calendar quarter tend to be higher as many patients elect to have surgery after meeting their annual deductible and having time to recover over the winter holidays. Our sales volumes in the first calendar quarter also tend to be lower as a result of adverse weather and by resetting annual patient healthcare insurance plan deductibles, both of which may cause patients to delay elective procedures. The orthopaedic industry traditionally experiences lower sales volumes in the third quarter than throughout the rest of the year as elective procedures generally decline during the summer months. Although we follow orthopaedic industry trends generally, to date our third quarter sales volumes have not been lower than other quarters, but we may experience relatively lower sales volumes during third quarters in the future.

Impact of COVID-19 Pandemic

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus (COVID-19) as a pandemic, which continues to spread throughout the United States. In response to COVID-19, certain states within the United States implemented shelter-in-place rules requiring certain businesses not deemed "essential," to close and requiring elective procedures to be delayed. As a result, our revenue growth was adversely impacted from March 2020 through May 2020 when such restrictions were largely eased.

There is significant uncertainty around the breadth and duration of business disruptions related to COVID-19, as well as its impact on the United States and international economies. We cannot reasonably estimate the length or severity of this pandemic, and while we experienced revenue growth during the pandemic, we have reduced our revenue growth forecasts to reflect a lower number of surgical procedures.

As a result, we shifted our priorities to: (i) reducing discretionary spending, (ii) maintaining the existing employee base and (iii) preserving liquidity. We have taken the following actions:

- Implemented a remote working environment, except for a limited staff on-site for critical business continuity functions, from March 2020 to September 2020.
- Reduced or delayed patient and surgeon medical education events, which we expect to continue while quarantine and shelter-in-place restrictions continue.
- Reduced salaries for existing employees for a savings of $256,000 in 2020 and implemented a hiring freeze from March 2020 to June 2020. The aggregate amount from the temporary salary reductions was repaid to employees in February 2021.
- Received $1.8 million in Small Business Administration (SBA) loans under the PPP (Payroll Protection Plan) portion of the CARES Act, which was repaid in March 2021.
- Amended the Loan and Security Agreement with Silicon Valley Bank to increase our line of credit from $5.0 million to $10.0 million and entered into the Term Loan Facility Agreement with CR Group LP (CRG), which provides us with up to $50.0 million in financing.

While we are confident in our actions to address the negative impact of COVID-19 on the business to date, there can be no assurances that these actions will be sufficient to support our business growth during the pandemic or that the pandemic will not again more negatively impact our business.

Coverage and Reimbursement

Hospitals, ambulatory surgery centers and surgeons that purchase or use our products generally rely on third-party payors to reimburse for all or part of the costs and fees associated with procedures using our products. As a result, sales of our products depend, in part, on the extent to which the procedures using our products are covered by third-party payors, including government programs such as Medicare and Medicaid, private insurance plans and managed care programs. Based on historical claims data from 2017, approximately 63% of Lapidus cases and 60% of all bunion surgical cases were paid by private payors.

Medicare payment rates to hospital outpatient departments are set under the Medicare hospital outpatient prospective payment system (OPPS), which groups clinically similar hospital outpatient procedures and services with similar costs to ambulatory payment classifications (APCs). Each APC is assigned a single lump sum payment rate, which includes payment for the primary procedure as well as any integral, ancillary, and adjunctive services. The primary CPT codes for the Lapiplasty Procedure, CPT 28297 and CPT 28740, are grouped together under APC 5114. For Lapiplasty Procedures in which fusion is performed on multiple TMT joints, CPT 28730 applies and is classified under APC 5115.

Components of Our Results of Operations

Revenue

We currently derive all of our revenue from the sale of our proprietary Lapiplasty System, and to a lesser extent ancillary products. The Lapiplasty System is comprised of single-use implant kits and reusable instrument trays. We sell the Lapiplasty System to physicians, surgeons, hospitals and ambulatory surgery centers in the United States through a network of independent agents and employee sales representatives. Our primary product is the Lapiplasty System, which is an instrumented, reproducible approach to 3D bunion correction that helps patients rapidly return to weight-bearing in a post-operative boot. We also offer other advanced instrumentation and implants for use in the Lapiplasty Procedure or other ancillary procedures performed in high frequency with bunion surgery. No single customer accounted for 10% or more of our revenue during the year ended December 31, 2020. We expect our revenue to increase in absolute dollars in the foreseeable future as we expand our sales territories, new accounts and trained physician base and as existing physician customers perform more Lapiplasty Procedures, though it may fluctuate from quarter to quarter due to a variety of factors, including seasonality.

Cost of Goods Sold

Cost of goods sold consists primarily of costs related to third-party manufacturing costs for the purchase of our Lapiplasty System products from third-party manufacturers. Direct costs from our third-party manufacturers includes costs for raw materials plus the markup for the assembly of the components. Cost of goods sold also includes royalties, allocated overhead for indirect labor, depreciation, rent and information technology, certain direct costs such as those incurred for shipping our products and personnel costs. We expense all inventory provisions for excess and obsolete inventories as cost of goods sold. We record adjustments to our inventory valuation for estimated excess, obsolete and non-sellable inventories based on assumptions about future demand, past usage, changes to manufacturing processes and overall market conditions. We expect our cost of goods sold to increase in absolute dollars in the foreseeable future to the extent more of our products are sold, though it may fluctuate from quarter to quarter.

Gross Profit and Gross Margin

We calculate gross profit as revenue less cost of goods sold, and gross margin as gross profit divided by revenue. Our gross margin has been and will continue to be affected by a variety of factors, primarily average selling prices, production and ordering volumes, change in mix of customers, third-party manufacturing costs and cost-reduction strategies. We expect our gross profit to increase in the foreseeable future as our revenue grows, though our gross margin may fluctuate from quarter to quarter due to changes in average selling prices as we introduce new products, and as we adopt new manufacturing processes and technologies.

Operating Expenses

Sales and Marketing

Sales and marketing expenses consist primarily of compensation for personnel, including salaries, bonuses, benefits, sales commissions and stock-based compensation, related to selling and marketing functions, physician education programs, training, travel expenses, marketing initiatives including our direct-to-patient outreach program and advertising, market research and analysis and conferences and trade shows. We expect sales and marketing expenses to continue to increase in absolute dollars in the foreseeable future as we continue to invest in our direct sales force and expand our marketing efforts, and as we continue to expand our sales and marketing infrastructure to both drive and support anticipated sales growth, though it may fluctuate from quarter to quarter.

Research and Development

Research and development (R&D) expenses consist primarily of engineering, product development, clinical studies to develop and support our products, regulatory expenses, patent costs, and other costs associated with

products and technologies that are in development. These expenses include compensation for personnel, including salaries, bonuses, benefits and stock-based compensation, supplies, consulting, prototyping, testing, materials, travel expenses, depreciation and an allocation of facility overhead expenses. Additionally, R&D expenses include costs associated with our clinical studies, including clinical trial design, clinical trial site initiation and study costs, data management, related travel expenses and the cost of products used for clinical trials, internal and external costs associated with our regulatory compliance and quality assurance functions and allocated overhead costs. We expect R&D expenses to continue to increase in absolute dollars in the foreseeable future as we continue to hire personnel and invest in next-generation innovations of the Lapiplasty System and related products, though it may fluctuate from quarter to quarter due to a variety of factors, including the level and timing of our new product development efforts, as well as our clinical development, clinical trial and other related activities.

General and Administrative

General and administrative expenses consist primarily of compensation for personnel, including salaries, bonuses, benefits and stock-based compensation, related to finance, information technology, legal and human resource functions, as well as professional services fees (including legal, audit and tax fees), insurance costs, general corporate expenses and allocated facilities-related expenses. We expect general and administrative expenses to continue to increase in absolute dollars in the foreseeable future as we hire personnel and our expand infrastructure to both drive and support the anticipated growth in our organization and due to additional legal, accounting, insurance, compliance with the rules and regulations of the SEC and those of any stock exchange on which our securities are traded, investor relations, and other administrative and professional services expenses associated with operating as a public company, though it may fluctuate from quarter to quarter.

Interest Income

Interest income consists of interest received on our money market funds.

Interest Expense

Interest expense consists of interest incurred and amortization of debt discount related to outstanding borrowings during the reported periods.

Results of Operations

For the Years Ended December 31, 2019 and 2020

The following table summarizes our results of operations for the period presented below:

	Year Ended December 31,		Change	
	2019	2020	Amount	%
	(in thousands)			
Revenue	$ 39,416	$ 57,365	$17,949	46%
Cost of goods sold	7,631	12,470	4,839	63%
Gross profit	31,785	44,895	13,110	41%
Operating expenses				
Sales and marketing	25,786	31,654	5,868	23%
Research and development	5,070	5,847	777	15%
General and administrative	4,464	6,539	2,075	46%
Total operating expenses	35,320	44,040	8,720	25%
Net (loss) income from operations	(3,535)	855	4,390	124%
Interest and other income (expense), net	111	(1,746)	(1,857)	*
Interest expense	(841)	(2,777)	(1,936)	(230)%
Other expense, net	(730)	(4,523)	(3,794)	*
Net loss and comprehensive loss	(4,265)	(3,668)	(597)	14%

* Not meaningful

Revenue. Revenue increased $18.0 million, or 45.5%, from $39.4 million in 2019 to $57.4 million in 2020. The increase in revenue was primarily due to an increased number of Lapiplasty Procedure Kits sold and an expanded customer base.

Cost of Goods Sold Gross Profit and Gross Margin. Cost of goods sold increased $4.8 million, or 63.4%, from $7.6 million in 2019 to $12.5 million in 2020. The increase in cost of goods sold was primarily due to an increase of $2.0 million in direct costs of goods sold due to our increased sales, an increase of $1.2 million in the provision for inventory obsolescence, an increase of $0.7 million in royalty expense and an increase of $0.7 million in costs of surgical instruments used during procedures, and $0.1 million impairment of capitalized surgical instruments that no longer have a useful life. Gross margin decreased from 80.6% in 2019 to 78.3% for 2020 primarily due to the increased charges for inventory obsolescence and costs of surgical instruments used during procedures, and the impairment of capitalized surgical instruments, offset by reduction in direct costs per unit and sterilization costs.

Sales and Marketing Expenses. Sales and marketing expenses increased $5.9 million, or 22.8% from $25.8 million in 2019 to $31.7 million in 2020. The increase in sales and marketing expenses was primarily due to an increase of $4.7 million in professional services primarily for higher commissions from increased sales, an increase of $1.4 million in marketing expenses and an increase of $0.8 million in payroll expenses, which were partially offset by a decrease of $0.7 million in travel and entertainment expenses.

Research and Development Expenses. Research and development expenses increased $0.8 million, or 15.3%, from $5.1 million in 2019 to $5.8 million in 2020. The increase in research and development expenses was due to an increase of $0.5 million in salaries and wages as we increased headcount to continue scaling up our business and an increase of $0.3 million in clinical study expenses.

General and Administrative Expenses. General and administrative expenses increased $2.1 million, or 46.5%, from $4.5 million in 2019 to $6.5 million in 2020. The increase in general and administrative expenses was primarily due to an increase of $0.7 million in professional services primarily related to legal and audit

expenses, an increase of $0.4 million in salaries as we increased headcount in our business, an increase of $0.4 million in general business expenses such as insurance, taxes and fees and an increase of $0.3 million in facilities expense due to the expansion of our office building.

Interest and Other Income (Expense), Net. Interest and other income (expense), net increased $(1.9) million from $0.1 in 2019 to $(1.7) million in 2020. The year-over-year increase in other expense is primarily related to retirement of long-term debt and the resulting expense of $1.7 million of unamortized debt discount attributable to the retired debt.

Interest Expense. Interest expense increased $1.9 million from $0.8 million in 2019 to $2.8 million in 2020. The year-over-year increase in interest expense was primarily due to an increase of $1.9 million in interest incurred on our term loans and credit facility.

Selected Quarterly Results of Operations

The following table sets forth our unaudited statements of operations and comprehensive loss data for each of the quarters presented. We have prepared the unaudited quarterly information on a basis consistent with our audited financial statements included elsewhere in this prospectus and include, in our opinion, all normal recurring adjustments necessary for the fair statement of the results of operations for the periods presented. The following quarterly financial information should be read in conjunction with our financial statements and related notes included elsewhere in this prospectus. Our historical quarterly results are not necessarily indicative of the results that may be expected in the future.

	Three Months Ended							
	Mar. 31, 2019	June 30, 2019	Sept. 30, 2019	Dec. 31, 2019	Mar. 31, 2020	June 30, 2020	Sept. 30, 2020	Dec. 31, 2020
	(unaudited) (in thousands)							
Revenue	$ 5,900	$ 7,886	$ 8,886	$16,744	$11,256	$ 7,739	$14,266	$24,104
Cost of goods sold	1,086	1,484	1,777	3,284	2,389	2,085	2,911	5,085
Gross profit	4,814	6,402	7,109	13,460	8,867	5,654	11,355	19,019
Operating expenses:								
Sales and marketing	4,608	5,812	6,921	8,445	7,338	4,789	8,103	11,424
Research and development	1,076	999	1,475	1,520	1,433	981	1,511	1,922
General and administrative	949	985	1,195	1,335	1,295	1,401	1,804	2,039
Total operating expenses	6,633	7,796	9,591	11,300	10,066	7,171	11,418	15,385
Net (loss) income from operations	(1,819)	(1,394)	(2,482)	2,160	(1,199)	(1,517)	(63)	3,634
Interest and other income (expense), net	31	46	27	7	33	3	(1,784)	1
Interest expense	(106)	(213)	(240)	(282)	(441)	(458)	(808)	(1,070)
Interest and other expense, net	(75)	(167)	(213)	(275)	(408)	(455)	(2,592)	(1,069)
Net (loss) income and comprehensive (loss) income	(1,894)	(1,561)	(2,695)	1,885	(1,607)	(1,972)	(2,655)	2,565
Convertible preferred stock cumulative and undeclared dividends	(158)	(160)	(161)	(161)	(158)	(160)	(161)	(161)
Net (loss) income attributable to common stockholders	$(2,052)	$(1,721)	$(2,856)	$ 1,724	$ (1,765)	$(2,132)	$ (2,816)	$ 2,404

	Three Months Ended							
	Mar. 31, 2019	June 30, 2019	Sept. 30, 2019	Dec. 31, 2019	Mar. 31, 2020	June 30, 2020	Sept. 30, 2020	Dec. 31, 2020
Revenue	100%	100%	100%	100%	100%	100%	100%	100%
Cost of goods sold	18%	19%	20%	20%	21%	27%	20%	21%
Gross profit:	82%	81%	80%	80%	79%	73%	80%	79%
Operating expenses:								
Sales and marketing	78%	74%	78%	50%	65%	62%	57%	47%
Research and development	18%	13%	17%	9%	13%	13%	11%	8%
General and administrative	16%	12%	13%	8%	12%	18%	13%	8%
Total operating expenses	112%	99%	108%	67%	89%	93%	80%	64%
Net income (loss) from operations	(31%)	(18%)	(28%)	13%	(11%)	(20%)	0%	15%
Interest and other income (expense), net	1%	1%	0%	0%	0%	0%	(13%)	0%
Interest expense	(2%)	(3%)	(3%)	(2%)	(4%)	(6%)	(6%)	(4%)
Interest and other expense, net	(1%)	(2%)	(2%)	(2%)	(4%)	(6%)	(18%)	(4%)
Net (loss) income and comprehensive (loss) income	(32%)	(20%)	(30%)	11%	(14%)	(25%)	(19%)	11%
Convertible preferred stock cumulative and undeclared dividends	(3%)	(2%)	(2%)	(1%)	(1%)	(2%)	(1%)	(1%)
Net (loss) income attributable to common stockholders	(35%)	(22%)	(32%)	10%	(16%)	(28%)	(20%)	10%

Quarterly Revenue Trends

Revenue increased sequentially in each of the periods presented, primarily due to an increase in the number of Lapiplasty Procedure Kits sold. The increase in the Lapiplasty Procedure Kits sold was primarily driven by increased utilization of our existing surgeon base as well as adding new surgeon customers, due in part to our increased sales and marketing investments. We experience seasonality in our business, with our sales volumes in the fourth calendar quarter tending to be higher as many patients elect to have surgery after meeting their annual deductible and having time to recover over the winter holidays. Our sales volumes in the first calendar quarter also tend to be lower as a result of adverse weather and by resetting annual patient healthcare insurance plan deductibles, both of which may cause patients to delay elective procedures. The orthopaedic industry traditionally experiences lower sales volumes in the third quarter than throughout the rest of the year as elective procedures generally decline during the summer months. Although we follow orthopaedic industry trends generally, to date our third quarter sales volumes have not been lower than other quarters, but we may experience relatively lower sales volumes during third quarters in the future.

Quarterly Cost of Goods Sold and Gross Margins Trends

Cost of goods sold increased sequentially in each of the periods presented, primarily due to an increase in the number of Lapiplasty Procedure Kits sold. Our gross margins remained relatively stable during the periods presented due to higher percentage of our cost of goods sold being direct costs that vary with product sales compared to indirect costs.

Quarterly Operating Expenses Trends

Our sales and marketing, research and development, and general and administration expenses each increased sequentially in each of the periods presented, primarily due to increases in our personnel costs as we increased our headcount and commissions paid to our external sales agents and internal direct sales organization based on increased sales. In contrast, our R&D and general and administrative expenses remained relatively stable between the periods presented.

Liquidity and Capital Resources

To date, our primary sources of capital have been private placements of common stock and convertible preferred stock, debt financing agreements and revenue from the sale of our products. As of December 31, 2020, we had cash and cash equivalents of $18.1 million, an accumulated deficit of $21.4 million and $30.0 million of principal outstanding under our term loan agreement and $1.8 million in borrowings outstanding from the PPP Loan, which we repaid in March 2021. During 2020, we entered into the new term loan agreement with CRG to obtain up to $50.0 million in financing over three tranches. We borrowed $30.0 million under the new facility with CRG and repaid prior existing outstanding debt under our credit facility with SVB. We also amended our existing credit facility with SVB to increase the revolving line of credit from $5.0 million to $10.0 million. We believe that our existing cash and cash equivalents, available debt borrowings and expected revenues will be sufficient to meet our capital requirements and fund our operations for the next 12 months. We may be required or decide to raise additional financing, including the completing of this offering, to support further growth of our operations.

Short-Term and Long-Term Obligations

Silicon Valley Bank Loan

On December 31, 2019, we entered into the Second Amendment (Second Amendment) to the Loan and Security Agreement (LSA) with SVB. The Second Amendment represents a modification to the First Amendment to the LSA dated February 14, 2019 (the First Amendment), and the LSA, dated April 18, 2018. The Second Amendment provides for up to $25.0 million in term loans structured in three tranches and $5.0 million in revolving line of credit. On August 3, 2020, we entered into the Third Amendment to the LSA (the Third Amendment), with SVB which terminated the third tranche term loan and increased the revolving line of credit by $5.0 million. The LSA, First Amendment, Second Amendment, and Third Amendment, (collectively, the SVB Credit Facility), is secured by substantially all of our assets (excluding intellectual property) and matures August 3, 2024. The SVB Credit Facility incurs interest at the greater of (i) 1.00% above the Prime Rate or (ii) 5.00%, and is subject to a termination fee of 1.00%.

As of December 31, 2019, we had $20.0 million in borrowings outstanding related to the first and second tranche term loans and no borrowings outstanding related to our revolving line of credit. Subsequent to entering into the CRG Term Loan Facility agreement with CRG, we repaid all term loans outstanding under the SVB Credit Facility. As of December 31, 2020, we had $10.0 million of availability to borrow under the revolving line of credit and no borrowings outstanding related to our revolving line of credit.

Under the terms of the SVB Credit Facility, we granted SVB first priority liens and security interests in substantially all of our assets (excluding our intellectual property but including any proceeds and rights to payments associated with our intellectual property) as collateral. The SVB Credit Facility also contains certain representations and warranties, indemnification provisions in favor of SVB, affirmative and negative covenants (including, among other things, requirements that we maintain a minimum amount of liquidity and achieve minimum revenue targets, limitations on other indebtedness, liens, acquisitions, investments and dividends and requirements relating to financial reporting, sales and leasebacks, insurance and protection of our intellectual property rights) and events of default (including payment defaults, breaches of covenants following any applicable cure period, investor abandonment, a material impairment in the perfection or priority of the lender’s security interest or in the collateral), and events relating to bankruptcy or insolvency). As of December 31, 2020, we were in compliance with all covenants under the SVB Credit Facility.

CRG Term Loan Facility

On July 31, 2020, we entered into a non-revolving term loan facility with CRG (the CRG Term Loan Facility), to obtain up to $50.0 million in financing over three tranches to be advanced no later than December 31, 2021. Principal amounts totaling $30 million were borrowed through December 31, 2020 and are currently outstanding.

The CRG Term Loan Facility matures on June 30, 2025, and we can elect to make quarterly interest- only payments, to pay interest in-kind through December 31, 2020 or, after December 31, 2020, pay 7.50% interest in cash and 5.5% interest in-kind. We are not required to make any principal payments until the maturity of the CRG Term Loan Facility and all outstanding principal and accrued interest are due upon the maturity of the CRG Term Loan Facility. Interest under the CRG Term Loan Facility is applied to outstanding principal and accrued interest at a rate of 13.00% per annum. If an event of default occurs, interest under the CRG Term Loan Facility will increase by 4.00%. If we repay the CRG Term Loan Facility within one year of the applicable borrowing date, we are required to pay a premium of 20.00% of the aggregated outstanding principal amount of the loans that is repaid. If we repay the CRG Term Loan Facility between one and two years from the applicable borrowing date, we are required to pay a premium of 11.00% of the aggregated outstanding principal amount of the loans that is repaid. The CRG Term Loan Facility does not require a prepayment premium for loans being prepaid on the prepayment date that is after two years from the applicable borrowing date.

Under the terms of the CRG Term Loan Facility, we granted CRG first priority liens and security interests in substantially all of our assets as collateral (including our intellectual property), provided that the priority of such liens are subject to an intercreditor agreement between CRG and SVB. The CRG Term Loan Facility also contains certain representations and warranties, indemnification provisions in favor of CRG, affirmative and negative covenants (including, among other things, requirements that we maintain a minimum amount of liquidity and achieve minimum revenue targets, limitations on other indebtedness, liens, acquisitions, investments and dividends and requirements relating to financial reporting, sales and leasebacks, insurance and protection of our intellectual property rights) and events of default (including payment defaults, breaches of covenants following any applicable cure period, investor abandonment, a material impairment in the perfection or priority of the lender’s security interest or in the collateral, and events relating to bankruptcy or insolvency). As of December 31, 2020, we were in compliance with all covenants under the CRG Term Loan Facility.

PPP Loan

We applied for and received a $1.8 million loan pursuant to the PPP Loan. The PPP Loan, which was in the form of a promissory note, dated April 22, 2020, between us and SVB as the lender, matures on April 22, 2022 and bears interest at a fixed rate of 1% per annum, payable monthly on the date that is the latter of (i) the date that is the 10th month after the end of the PPP Loan covered period and (ii) assuming we have applied for forgiveness within the period described in clause (i), the date on which SBA remits the loan forgiveness amount on the loan to SVB (or notifies such lender that no loan forgiveness is allowed). Under the terms of the PPP Loan, the principal may be forgiven if the loan proceeds are used for qualifying expenses as described in the CARES Act, such as payroll costs, benefits, mortgage interest, rent, and utilities. We repaid the $1.8 million borrowed under the PPP Loan in March 2021.

Funding Requirements

We use our cash to fund our operations, which primarily include the costs of manufacturing our Lapiplasty System and ancillary products, as well as our sales and marketing and research and development expenses and related personnel costs. We expect our sales and marketing expenses to increase for the foreseeable future as we continue to invest in our direct sales force and expand our marketing efforts, and as we continue to expand our sales and marketing infrastructure to both drive and support anticipated sales growth. We also expect R&D expenses to increase for the foreseeable future as we continue to hire personnel and invest in next-generation innovations of the Lapiplasty System and related products. In addition, we expect our general and administrative expenses to increase for the foreseeable future as we hire personnel and expand our infrastructure to both drive and support the anticipated growth in our organization. We will also incur additional expenses as a result of operating as a public company and also expect to increase the size of our administrative function to support the growth of our business. The timing and amount of our operating expenditures will depend on many factors, including:

- the scope and timing of our investment in our commercial infrastructure and sales force;

- the costs of our ongoing commercialization activities including product sales, marketing, manufacturing and distribution;
- the degree and rate of market acceptance of the Lapiplasty System;
- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- our need to implement additional infrastructure and internal systems;
- the research and development activities we intend to undertake in order to improve the Lapiplasty System;
- the emergence of competing technologies or other adverse market developments;
- any product liability or other lawsuits related to our products;
- the expenses needed to attract and retain skilled personnel;
- the costs associated with being a public company; and
- the impact of the COVID-19 pandemic on our operations and business.

Based upon our current operating plan, we believe that the net proceeds from this offering, together with our existing cash and cash equivalents, will enable us to fund our operating expenses and capital expenditure requirements for at least the next months from the date of this offering. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we expect. We may seek to raise any necessary additional capital through public or private equity offerings or debt financings, credit or loan facilities or a combination of one or more of these or other funding sources. Additional funds may not be available to us on acceptable terms or at all. If we fail to obtain necessary capital when needed on acceptable terms, or at all, we could be forced to delay, limit, reduce or terminate our product development programs, commercialization efforts or other operations. If we raise additional funds by issuing equity securities, our stockholders will suffer dilution and the terms of any financing may adversely affect the rights of our stockholders. In addition, as a condition to providing additional funds to us, future investors may demand, and may be granted, rights superior to those of existing stockholders. Debt financing, if available, is likely to involve restrictive covenants limiting our flexibility in conducting future business activities, and, in the event of insolvency, debt holders would be repaid before holders of our equity securities received any distribution of our corporate assets

Cash Flows

The following table sets forth the primary sources and uses of cash and cash equivalents for the period presented below:

	Years Ended December 31,		Change	
	2019	2020	Amount	%
	(in thousands, other than percent change)			
Net cash (used in) provided by:				
Operating activities	$ (7,673)	$ (4,494)	$ 3,179	41%
Investing activities	(1,211)	(1,069)	142	12%
Financing activities	19,739	11,503	(8,236)	(42%)
Net increase in cash and cash equivalents	$10,855	$ 5,940	$(4,915)	(45%)

Net Cash Used in Operating Activities

Net cash used in operating activities for 2019 was $7.7 million, consisting primarily of a net loss of $4.3 million and an increase in net operating assets of $5.3 million, partially offset by non-cash charges of $1.9 million. The increase in net operating assets was primarily due to an increase in accounts receivable resulting from higher revenues in 2019, inventories resulting from increased purchases in anticipation of growing demand in 2020 and prepaid expenses to support the growth of our operations, partially offset by increases in accrued liabilities and accounts payable, due to timing of payments and growth of our operations. The non-cash charges primarily consisted of depreciation and amortization expense of $0.8 million, stock-based compensation expense of $0.8 million, provision for doubtful accounts of $0.1 million and amortization of debt issuance costs and warrant discount of $0.1 million.

Net cash used in operating activities for 2020 was $4.5 million, consisting primarily of a net loss of $3.7 million and an increase in net operating assets of $5.3 million, which were partially offset by non-cash charges of $4.5 million. The increase in net operating assets was primarily due to an increase in accounts receivable resulting from higher revenues in 2020 and inventories resulting from higher purchases in anticipation of growing demand in 2021, which were offset by increases in accounts payable and accrued liabilities due to timing of payments and growth of our operations. The non-cash charges primarily consisted of depreciation and amortization expense of $1.2 million, provision for excess and obsolete inventories of $1.1 million, share-based compensation expense of $0.9 million, provision for allowance for doubtful accounts of $0.2 million, amortization of debt issuance costs of $0.2 million and impairment of surgical instruments of $0.1 million.

Net Cash Used in Investing Activities

Net cash used in investing activities was $1.2 million and $1.1 million in 2019 and 2020, respectively, consisting primarily of purchases of capitalized surgical instruments for our reusable surgical kits.

Net Cash Provided by Financing Activities

Net cash provided by financing activities in 2019 of $19.7 million, consisting primarily of additional borrowings under the term loan agreement of $20.0 million and cash received of $0.1 million from the exercise of stock options, partially offset by debt issuance costs of $0.3 million.

Net cash provided by financing activities in 2020 of $11.5 million, consisting primarily of additional borrowings under the CRG Term Loan Facility of $29.5 million (net of debt discount), partially offset by repayment of the term loans under the SVB Credit Facility of $20.0 million, borrowing under SBA Loan of $1.8 million and cash received of $0.3 million from the exercise of stock options, partially offset by debt issuance costs of $0.2 million.

Surgeon Advisory Board Royalty Agreements

Due to their historic involvement in some of our early product development, we entered into royalty agreements with certain members of our Surgeon Advisory Board (the SAB Royalty Agreements). The SAB Royalty Agreements provide for royalties based on each individual's level of contribution. We paid aggregate royalties of $1.7 million and $2.4 million for the years ended December 31, 2019 and 2020, respectively, resulting in an aggregate royalty rate of 4.3% and 4.1% for the years ended December 31, 2019 and 2020, respectively. Each of the SAB Royalty Agreements prohibits the payment of royalties on products sold to entities and/or individuals with whom any of the surgeon advisors is affiliated. For additional information, see the section titled "Business—Royalty and License Agreements."

Off-Balance Sheet Arrangements

We did not have during the period presented, and we currently have no off-balance sheet arrangements, such as structured finance, special purpose entities, or variable interest entities.

Contractual Obligations and Commitments

Our principal obligations consist of the operating lease for our facility, our SVB Credit Facility and CRG Term Loan agreement. The following table sets out, as of December 31, 2020, our contractual obligations and commitments due by period:

	Payments Due By Period				
	Less Than 1 Year	1-3 Years	3-5 Years	More Than 5 Years	Total
	(in thousands)				
Operating lease obligations	$ 518	$ 744	$ 286	$ —	$ 1,548
Debt, including interest(1)	5,706	7,800	35,850	—	49,356
Total	$ 6,224	$8,544	$36,136	$ —	$50,904

(1) Amount reflects total anticipated cash payments, including anticipated interest payments based on the interest rate for the CRG Term Loan Facility as of December 31, 2020.

Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires us to make estimates and assumptions for the reported amounts of assets, liabilities, revenue, expenses and related disclosures. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions and any such differences may be material.

While our significant accounting policies are more fully described in Note 2 of our financial statements included in this prospectus, we believe the following discussion addresses our most critical accounting policies, which are those that are most important to our financial condition and results of operations and require our most difficult, subjective and complex judgments.

Revenue Recognition

We generate revenue through the sale of our primary product, our proprietary Lapiplasty System. The Lapiplasty System is comprised of single-use implant kits and reusable instrument trays and is sold in the United States through a network of independent agents and employee sales representatives. We invoice hospitals and ambulatory surgery centers for the implant kits and pay commissions to the sales representatives and agents. Our invoices are generally payable within 30 days. We do not have any international sales.

For shipments to customers, we offer the right to return the product within thirty days for a full refund and for returns between thirty and ninety days, we offer a full refund less 15% restocking fee. We do not have a history of product returns for refund. Customer invoices are generally payable within 30 days. Our products are generally sold with a limited standard warranty to the original purchaser of the products against defects in workmanship and materials for 180 days. Our liability is limited to providing, at our option, a full refund or credit of the purchase price, or repairing or replacing the product, provided that the customer returns the defective product within 180 days from the purchase date. To date, we have had a negligible number of warranty claims or returns of any products alleged to be defective.

On January 1, 2019, we adopted Accounting Standards Codification (ASC) 606, *Revenue from Contracts with Customers*, using the modified retrospective method for all contracts not completed as of the date of adoption. In connection with the adoption of ASC 606, we also adopted the related amendments that impact the accounting for the incremental costs of obtaining a contract. Adoption of ASC 606 did not have any impact on the financial statements, except changes in the disclosures.

Under ASC 606, revenue is recognized when the customer obtains control of promised goods or services, in an amount that reflects consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606 we perform the following five steps as prescribed by ASC 606:

(i) identify the contract(s) with a customer;

(ii) identify the performance obligations in the contract;

(iii) determine the transaction price;

(iv) allocate the transaction price to the performance obligations in the contract; and

(v) recognize revenue when (or as) the entity satisfies performance obligations.

A contract with a customer exists when (i) we enter into a legally enforceable contract with a customer that defines each party's rights regarding the products to be transferred and identifies the payment terms related to these products, (ii) the contract has commercial substance and, (iii) we determine that collection of substantially all consideration for our products that are transferred is probable based on the customer's intent and ability to pay the promised consideration. We consider signed agreements and purchase orders as a customer's contract.

We identify performance obligations based on the terms of the contract and customary business practices, which include products that are distinct. The delivery of our Lapiplasty System products is a distinct performance obligation. We do not have any contracts with customers that contain multiple performance obligations.

The transaction price in our customer contracts includes fixed consideration to be contractually billed to the customer while variable consideration includes the right of return. We do not allocate the transaction price or any variable consideration to the right of return. We did not recognize a refund liability as of December 31, 2019 and December 31, 2020 and there were no product returns during the years ended December 31, 2019 and December 31, 2020.

Revenue for products is recognized when a customer obtains control of the promised products, which is generally when the customer has the ability to (i) direct its use and (ii) obtain substantially all of the remaining benefits from it. We consign products with our independent sales agents but do not recognize revenue at the time the product is transferred on consignment. Revenue recognition occurs when control of the product transfers to the customer which is generally at the time the product is used in surgery. When a customer purchases products directly from us before the time of surgery, revenue is recognized upon shipment based on the contract terms.

Contract Costs

We recognize the incremental costs of obtaining a contract as expense when incurred because the amortization period would be one year or less. These incremental costs include sales commissions payable to our independent sales agents or internal sales representatives.

Inventories

Inventories consist primarily of surgical kits and components as finished goods and are stated at the lower of cost or net realizable value. Cost is determined based on an average cost method which approximates the first-in, first-out basis and includes primarily outsourced manufacturing costs and direct manufacturing overhead costs. We review inventory for obsolescence and write down our inventory, as necessary.

Stock-Based Compensation

We account for stock-based compensation arrangements with employees in accordance with ASC 718, *Compensation—Stock Compensation*, using a fair-value based method. We determine the fair value of stock options on the date of grant using the Black-Scholes option pricing model.

The fair value of time-based awards is recognized over the period during which an option holder is required to provide services in exchange for the option award, known as the requisite service period, which is typically the vesting period using the straight-line method. We accrue for estimated forfeitures on share-based awards and, adjust stock-based compensation cost to actual as forfeitures occur. The estimated forfeitures are based on a historical analysis of actual forfeitures of awards.

We estimate the fair value of our stock-based awards using the Black-Scholes option-pricing model, which requires the input of highly subjective assumptions. Our assumptions are as follows:

- *Fair Value of Common Stock.* The absence of an active market for our common stock requires us to estimate the fair value of our common stock. See the subsection titled "Fair Value of Common Stock" below.
- *Expected Term.* The expected term represents the period that the stock options are expected to remain outstanding. We determined the expected term based upon the probabilities of the anticipated timing of potential liquidity events.
- *Expected Volatility.* The expected volatility is derived from the historical stock volatilities of several comparable publicly listed peers over a period approximately equal to the expected term of the options as we have no trading history to determine the volatility of our common stock.
- *Risk-Free Interest Rate.* The risk-free interest rate is based on the U.S. Treasury yield curve in effect at the date of grant for zero-coupon U.S. Treasury notes with maturities approximately equal to the stock-based awards' expected term.
- *Expected Dividend Yield.* The expected dividend yield is zero as we have not paid nor do we anticipate paying any dividends on our common stock in the foreseeable future.

We will continue to use judgment in evaluating the expected volatility and expected terms utilized for our stock-based compensation calculations on a prospective basis. As we continue to accumulate additional data, we may have refinements to our assumptions, which could materially impact our future stock-based compensation expense.

We recorded stock-based compensation expense of $0.9 million for 2020. As of December 31, 2020, there was $4.1 million of unrecognized stock-based compensation expense related to unvested common stock options which we expect to recognize over a weighted-average period of 3.01 years. We expect to continue to grant stock options and other equity-based awards in the future, and to the extent that we do, our stock-based compensation expense recognized in future periods is expected to increase.

Based upon an assumed initial public offering price of $ per share, the midpoint of the price range set forth on the cover page of this prospectus, the aggregate intrinsic value of options outstanding as of 2020 was $42.1 million, of which $ million related to vested options and $ million related to unvested options.

Fair Value of Common Stock

The estimated fair value of the common stock underlying our stock options was determined at each grant date by our board of directors, with input from management. All options to purchase shares of our common stock are intended to be exercisable at a price per share not less than the per share fair value of our common stock underlying those options on the date of grant.

In the absence of a public trading market for our common stock, on each grant date, we develop an estimate of the fair value of our common stock based on the information known to us on the date of grant, upon a review of any recent events and their potential impact on the estimated fair value per share of the common stock and considering independent third-party valuations of our common stock. Our valuations of our common stock were determined in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, *Valuation of Privately-Held-Company Equity Securities Issued as Compensation* (the Practice Aid).
The assumptions used to determine the estimated fair value of our common stock are based on numerous
objective and subjective factors, combined with management judgment, including:

- external market conditions affecting our industry and trends within the industry;
- our stage of development and business strategy;
- the rights, preferences and privileges of our convertible preferred stock relative to those of our common stock;
- the prices at which we sold shares of our convertible preferred stock;
- our financial condition and operating results, including our levels of available capital resources;
- the progress of our research and development and commercialization efforts;
- equity market conditions affecting comparable public companies; and
- general U.S. market conditions and the lack of marketability of our common stock.

The assumptions underlying these valuations represent our board of directors' best estimates at the time they were made, which involve inherent uncertainties and the application of the judgment of our board of directors. As a result, if factors or expected outcomes change and we use significantly different assumptions or estimates, our stock-based compensation expense could be materially different.

In determining the fair value of our common stock, we estimated the enterprise value of our business using equal weighting between the income and market approaches.

The market approach attempts to value an asset or security by examining observable market values for similar assets or securities. When applied to the valuation of equity, the analysis may include consideration of the financial condition and operating performance of the company being valued relative to those of publicly traded companies or to those of companies acquired in a single transaction, which operate in the same or similar lines of business. In order to achieve comparability, multiples may be adjusted to factor in differences in entity size, profitability, expected growth, working capital, liquidity, and investors' required rate of return. The specific market approaches employed in our third-party valuations include the following:

- *Guideline Public Company Approach.* Enterprise value is estimated based upon the observed valuation multiples of comparable public companies.
- *Guideline Transactions Approach.* Enterprise value is estimated based upon the observed valuation multiples paid in acquisitions of comparable companies.

The income approach attempts to value an asset or security by estimating the present value of the future economic benefits it is expected to produce. These benefits can include earnings, cost savings, tax deductions, and disposition proceeds from the asset. Projected cash flows are then discounted to a present value employing a discount rate that properly accounts for the estimated market weighted-average cost of capital, as well as any risk unique to the subject cash flows. Finally, an assumption is made regarding the sustainable long-term rate of growth and a residual value is estimated and discounted to a present value. The sum of the present value of the cash flows and the residual, or "terminal," value represents the estimated fair value of the total invested capital of the entity. The specific income approach employed in our third-party valuations was a discounted cash flow analysis. Specific inputs into the discounted cash flow analysis were forecasted by our management team and included:

- estimated future revenues;
- estimated future operating expenses;
- estimated future other income and expenses and provision for income taxes;
- estimated future capital expenditures; and
- estimated future working capital requirements.

The Practice Aid identifies various available methods for allocating enterprise value across classes and series of capital stock to determine the estimated fair value of common stock at each valuation date. In accordance with the Practice Aid, we considered the following methods:

- *Option Pricing Method (OPM).* Under the OPM, shares are valued by creating a series of call options with exercise prices based on the liquidation preferences and conversion terms of each equity class. The estimated fair values of the preferred and common stock are inferred by analyzing these options.
- *Probability-Weighted Expected Return Method (PWERM).* The PWERM is a scenario-based analysis that estimates value per share based on the probability-weighted present value of expected future investment returns, considering each of the possible outcomes available to us, as well as the economic and control rights of each share class.

We determined that a hybrid approach of the OPM and the PWERM methods was the most appropriate method for allocating our enterprise value to determine the estimated fair value of our common stock. In determining the estimated fair value of our common stock, our board of directors also considered the fact that our stockholders could not freely trade our common stock in the public markets. Accordingly, we applied discounts to reflect the lack of marketability of our common stock based on the weighted-average expected time to liquidity. The estimated fair value of our common stock at each grant date reflected a non-marketability discount partially based on the anticipated likelihood and timing of a future liquidity event.

Following the closing of this offering, our board of directors intends to determine the fair value of our common stock based on the closing quoted market price of our common stock as reported on the Nasdaq Global Market on the date of grant.

Income Taxes

We account for income taxes under the liability method, whereby deferred tax assets and liabilities are determined based on the difference between the financial statements and tax bases of assets and liabilities using the enacted tax rates in effect for the year in which the differences are expected to affect taxable income. A valuation allowance is established when necessary to reduce deferred tax assets when management estimates, based on available objective evidence, that it is more likely than not that the benefit will not be realized for the deferred tax assets.

We also follow the provisions of ASC 740-10, *Accounting for Uncertainty in Income Taxes*. ASC 740-10, which prescribes a comprehensive model for the recognition, measurement, presentation and disclosure in financial statements of any uncertain tax positions that have been taken or expected to be taken on a tax return. No liability related to uncertain tax positions is recorded on the financial statements. It is our policy to include penalties and interest expense related to income taxes as part of the provision for income taxes.

Recently Issued Accounting Pronouncements

See Note 3 to our financial statements included elsewhere in this prospectus for new accounting pronouncements not yet adopted as of the date of this prospectus.

Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

The primary objectives of our investment activities are to preserve principal and provide liquidity. The risk associated with fluctuating interest rates is primarily limited to our cash equivalents, which are carried at quoted market prices. Since our results of operations are not dependent on investments, the risk associated with fluctuating interest rates is limited to our investment portfolio, and we believe that a hypothetical 10% change in interest rates would not have a significant impact on our financial statements included elsewhere in this prospectus. As of December 31, 2020, our investments consisted only of money market funds. We do not currently use or plan to use financial derivatives in our investment portfolio.

Foreign Currency Risk

Our business is primarily conducted in U.S. dollars. We do not currently maintain a program to hedge exposures to non-U.S. dollar currencies. Any transactions that may be conducted in foreign currencies are not expected to have a material effect on our results of operations, financial position or cash flows.

Emerging Growth Company and Smaller Reporting Company Status

As an emerging growth company under the Jumpstart Our Business Startups Act of 2012, we are eligible to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies. We have elected to avail ourselves of this exemption from new or revised accounting standards and, therefore, while we are an emerging growth company, we will not be subject to new or revised accounting standards at the same time that they become applicable to other public companies that are not emerging growth companies. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We will remain an emerging growth company until the earliest of (i) the last day of our first fiscal year in which we have total annual gross revenues of $1.07 billion or more, (ii) the date on which we are deemed to be a “large accelerated filer” under the rules of the SEC with at least $700.0 million of outstanding equity securities held by non-affiliates, (iii) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the previous three years, or (iv) the last day of our fiscal year following the fifth anniversary of the date of the completion of this offering.

We are also a “smaller reporting company” as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as the market value of our voting and non-voting common stock held by non-affiliates is less than $250.0 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than $100.0 million during the most recently completed fiscal year and the market value of our voting and non-voting common stock held by non-affiliates is less than $700.0 million measured on the last business day of our second fiscal quarter.

BUSINESS

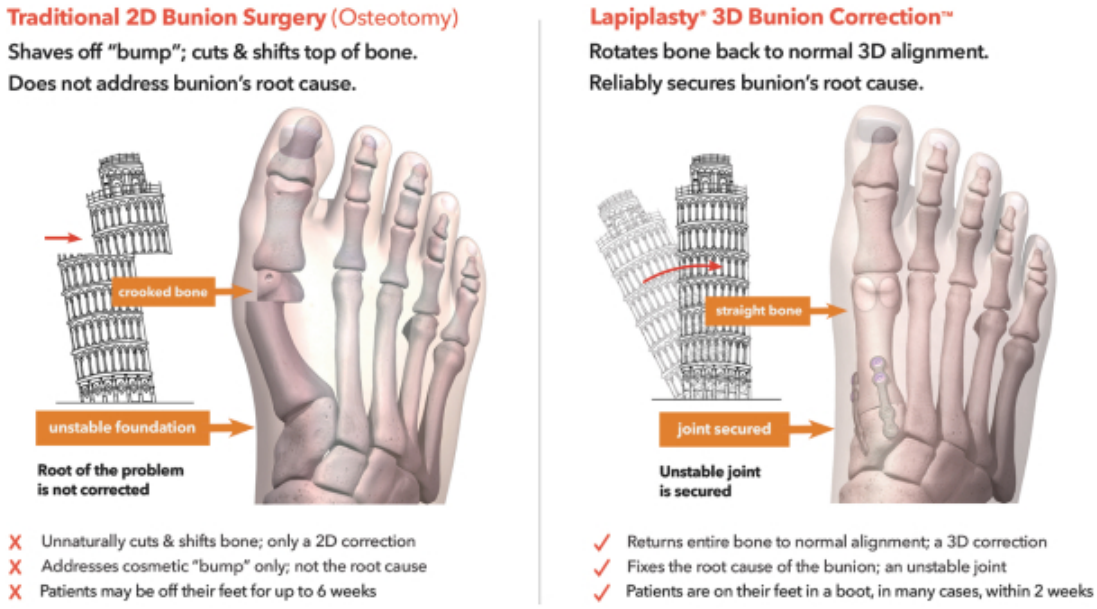
Overview

We are a commercial-stage orthopaedic medical device company driving a paradigm shift in the surgical treatment of *Hallux Valgus* (commonly known as bunions). We have pioneered our proprietary Lapiplasty 3D Bunion Correction System—a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery. Although bunions are deformities typically caused by an unstable joint in the middle of the foot that leads to a three-dimensional (3D) misalignment in the foot's anatomical structure, the majority of traditional surgical approaches focus on correcting the deformity from a two-dimensional (2D) perspective and therefore fail to address the root cause of the disorder. To effectively restore the normal anatomy of bunion patients and improve clinical outcomes, we believe addressing the root cause of the bunion is critical and have developed the Lapiplasty System to correct the deformity across all three anatomic dimensions. Our mission is to be the leader in the surgical treatment of bunions by establishing the Lapiplasty System as the standard of care.

A bunion is a painful, disfiguring deformity characterized by a deviated position of the great toe, and easily identified visually by the "bump" at its base. Bunions affect approximately 65 million Americans, and generally increase in prevalence and severity over time. Nearly 25% of adults between the ages of 18 and 65, and over 35% of people over the age of 65, have bunions. Approximately 4.4 million patients in the United States seek medical attention for bunions annually; of these patients, an estimated 1.1 million are deemed surgical candidates, which represents a total annual addressable market opportunity of more than $5 billion. This large patient population often suffers from symptoms that worsen over time, including severe and debilitating pain, emotional burden and limited mobility, and is susceptible to further degeneration and common concomitant pathologies. Despite the significant limitations of traditional surgical treatment approaches, approximately 450,000 surgical bunion procedures are performed in the United States every year.

The goal of bunion surgery is to restore the normal anatomy of patients in order to return natural function and appearance in the foot and relieve pain. A common misconception is that a bunion is simply an overgrowth of bone that can be shaved off. In reality, a bunion is a complex 3D deformity caused by an unstable joint in the middle of the foot (which we may refer to as the "root cause") which causes the metatarsal bone in the foot to rotate out of alignment in all three anatomic dimensions. A recent study indicates that 87% of bunions have a 3D, rotational issue in addition to horizontal and vertical misalignments of the metatarsal bone. Traditional 2D approaches to bunion surgery, used in the majority of bunion surgical procedures, fail to correct this third "rotational" dimension of the bunion deformity, which has been reported to result in a 10 to 12 times increase in the chance of bunion recurrence as compared to 3D surgeries.

Historically, there have been two primary approaches to the surgical treatment of bunions, both of which fail to consistently meet patient needs and physician expectations. The first and most common approach is 2D Osteotomy surgery, which merely cuts and shifts the metatarsal bone in two dimensions, addressing the cosmetic bump rather than the root cause, which may result in high long-term recurrence rates (up to 78%) and low patient satisfaction with the procedure. The second approach, traditionally reserved for the most advanced and severe bunion pathology is Lapidus Fusion surgery, which fuses the unstable joint but requires a technically challenging correction through a "freehand" technique which often results in inconsistent outcomes and has been reported to involve a protracted period of recovery, including approximately 6 to 8 weeks of non-weight-bearing. The freehand technique is highly dependent on the surgeon's skill and requires the physician to perform complex corrections without the benefits of assistive instrumentation that are standard in most other orthopaedic joint procedures and, consequently, this surgery often results in inconsistent outcomes.



We believe our proprietary Lapiplasty System, the first of its kind, is the leading system designed to consistently and reliably correct all three dimensions of the bunion deformity, address the root cause of the bunion deformity, and allow rapid return to weight-bearing in a post-operative boot with low risk of recurrence. The Lapiplasty System combines our novel surgical approach, the Lapiplasty Procedure, with our procedural instrumentation and single-use implant kits. With help from our procedural instrumentation, the Lapiplasty Procedure is designed to rotate the entire metatarsal bone into normal anatomical position in all three dimensions, eliminating the bump and restoring normal anatomy. The unstable foundation in the foot is then secured with our titanium fixation plates and screws, allowing patients to get back on their feet quickly in a post-operative boot. The Lapiplasty Procedure can be performed in either hospital outpatient or ambulatory surgery center settings, and utilizes existing, well-established reimbursement codes. Since receiving 510(k) clearance for the Lapiplasty System in March 2015, more than 25,000 Lapiplasty procedures have been performed in the United States.

Based on the estimated 1.1 million bunion patients deemed surgical candidates in the United States each year, we believe a total annual addressable market opportunity of more than $5 billion exists for our Lapiplasty System. Despite this large patient base, only approximately 450,000 surgical bunion procedures are performed annually in the United States. We believe there is a significant opportunity to convert these traditional surgical bunion procedures to our Lapiplasty System, representing an estimated annual addressable market opportunity of greater than $2.3 billion. In addition, through improved clinical outcomes relative to existing standards of care and effective patient education, we believe there is an opportunity to increase the number of surgical candidates who elect to have bunion surgery, representing an incremental annual addressable market opportunity of approximately $3 billion.

The safety, effectiveness and clinical advantages of the Lapiplasty System have been demonstrated in multiple post-market clinical outcome studies. This portfolio of studies is unique in the bunion correction field where comprehensive outcome studies are limited. Multiple peer-reviewed publications have demonstrated the ability of the Lapiplasty System to reproducibly correct all three dimensions of the deformity and allow the patient to quickly and safely return to weight-bearing in a post-operative boot while exhibiting a low rate of bunion recurrence (0.9% to 3.2% measured at 17 and 13 months, respectively). We are actively enrolling our ALIGN3D prospective, multicenter study which will evaluate bunion correction status after two years and includes patient satisfaction scoring, range of motion results and radiographic outcomes.

To broaden our Lapiplasty offerings, we recently launched the Lapiplasty Mini-Incision System, which is designed to allow the Lapiplasty Procedure to be performed through a miniature, 3.5cm incision as compared to the current 6cm to 8cm incision. We have also commercialized new products that address ancillary surgical procedures performed routinely in connection with the Lapiplasty Procedure. We believe these ancillary product offerings will allow us to capture a higher percentage of the overall product revenue from the surgical case while also providing greater efficiency to the facility and operating room staff by reducing the number of vendors needed to support the case.

We market and sell our products in the United States through a combination of a direct employee sales force and independent sales agents across 98 territories focused on driving adoption and supporting utilization of the Lapiplasty System among the approximately 7,400 surgical podiatrists and 2,600 orthopaedic surgeons with foot and ankle specializations in the United States. To improve clinical outcomes, we devote significant resources to training and educating physicians on the safe and effective use of the Lapiplasty System. Additionally, we have developed a differentiated direct-to-patient outreach program that educates patients on the benefits of the Lapiplasty System. We also offer a “Find a Doctor” tool on our website that allows potential patients to search for experienced Lapiplasty Procedure surgeons in their local markets. Our patient and surgeon education programs and specialized teams supporting surgeons in the field combined with the Lapiplasty System’s differentiated clinical outcomes lead to a significant increase in utilization of the Lapiplasty System per physician over time. For example, as of December 31, 2020, surgeons who performed their first Lapiplasty Procedure in 2020, on average, performed 3.2 procedures during the year while surgeons who performed their first procedure in 2017 or prior, on average, performed 17.7 Lapiplasty Procedures in 2020.

Our internal employee engineering personnel and our Surgeon Advisory Board help us to generate ideas and develop product innovations. Our Surgeon Advisory Board is comprised of both podiatrists and orthopaedic foot and ankle surgeons who provide us with holistic insights for developing products that fully meet the needs of each group. Our development team is focused on improving clinical outcomes by designing new procedure-specific products and by developing enhanced surgical techniques.

We have experienced considerable growth since receiving 510(k) clearance for the Lapiplasty System in March 2015. The number of Lapiplasty Procedure Kits sold increased from 7,714 in 2019 to 11,113 in 2020, representing growth of 44%, despite the impact of COVID-19 on elective procedures in 2020. Correspondingly, our revenue increased from $39.4 million in 2019 to $57.4 million in 2020, representing growth of 46%, from 2019 to 2020. Our net losses were $4.3 million and $3.7 million for the years ended December 31, 2019 and December 31, 2020, respectively.

What Sets Us Apart

We believe the following strengths differentiate our company and will continue to be significant factors in our success and growth:

- **Paradigm-Shifting 3D Approach to the Surgical Treatment of Bunions.** We are driving a paradigm shift in the understanding and surgical treatment of bunions as 3D rather than 2D deformities. While an estimated 87% of bunions involve a misalignment of the metatarsal bone in three anatomic dimensions, traditional 2D approaches to bunion surgery fail to reliably correct all three dimensions of the bunion deformity, reported to result in a 10 to 12 times increase in the rate of recurrence. We believe our proprietary Lapiplasty System was the first and remains the leading system designed to consistently and reliably correct all three dimensions of the bunion deformity, address the root cause and allow rapid return to weight-bearing in a post-operative boot. Our goal is to leverage our disruptive technology to establish the Lapiplasty System as the standard of care for the surgical treatment of bunions.

- **Large and Underserved Market With Established Reimbursement**. We believe our annual addressable United States market opportunity of approximately $5 billion is one of the largest and most underserved in the entire orthopaedic market. Of the 65 million Americans affected by bunions, an estimated 1.1 million are deemed bunion surgical candidates each year. Given that traditional surgical procedures are characterized by inconsistent outcomes and high levels of patient dissatisfaction, of these estimated 1.1 million potential patients, only approximately 450,000 surgical bunion procedures are performed annually. With 11,113 Lapiplasty Procedure Kits sold in 2020, it is estimated that the Lapiplasty Procedure was performed in less than 3% of total bunion surgical procedures in the United States. Utilizing existing, well-established reimbursement codes, we believe our differentiated products and procedures has potential to significantly penetrate this expansive market opportunity.
- **Comprehensive and Differentiated Clinical Evidence**. The safety, effectiveness and clinical advantages of the Lapiplasty System are supported by data from multiple peer-reviewed journal publications that collectively evaluated hundreds of subjects across multiple centers in the United States. Several of these peer-reviewed publications have demonstrated the ability of the Lapiplasty System to reproducibly correct the bunion deformity in all three dimensions and allow the patient to quickly and safely return to weight-bearing in a post-operative boot. We believe this robust body of clinical data supports the superiority of the Lapiplasty System over traditional approaches to bunion surgery and will continue to serve as a catalyst for attracting new surgeons and patients.
- **Robust Intellectual Property Portfolio.** We have a broad patent portfolio, with 21 patents granted in the United States covering the Lapiplasty System and related methodologies. These patents provide protection through at least 2035. Additionally, as of December 31, 2020, we had 50 patent applications pending globally. We believe our intellectual property and know-how presents a significant barrier to entry for our competitors.
- **Effective Patient Outreach and Surgeon Education Programs.** We have built a sophisticated patient outreach and surgeon medical education program focused on improving clinical outcomes that has resulted in continued adoption and utilization of our Lapiplasty System. Our direct-to-patient outreach program is effective at reaching prospective patients and educating them through our website on the benefits of the Lapiplasty System. Many patients find surgeons in their local markets who are experienced with the Lapiplasty Procedure through our website's "Find a Doctor" tool. Our leading medical education programs include highly accessible cadaveric training workshops and technical assistance to support new surgeons performing the Lapiplasty Procedure. We also conduct advanced training programs for our existing surgeon customers that improve their technical skills and clinical outcomes by teaching advanced techniques for use with the Lapiplasty Procedure.
- **Highly Experienced, Proven Management Team and Board of Directors**. We are led by a highly experienced management team and board with a successful track record of building businesses by identifying and providing solutions for underserved medical device market segments. Our senior management team and board has an average of over 25 years of experience leading the medical device industry and a track record of participating in multiple successful market conversions.

Our Growth Strategy

Our mission is to be the leader in the surgical treatment of bunions by establishing the Lapiplasty System as the standard of care. We seek to achieve this through the following growth strategies:

- **Expanding our Sales Channel to Accelerate Market Penetration.** We are dedicating meaningful resources to expand our sales force and management team in the United States. We are hiring additional employee sales representatives and field sales management to strategically access more regions with high densities of prospective patients. This has resulted in the revenue from our employee sales force as a percentage of our total revenue increasing from 10% in 2018 and 27% in 2019 to 35% in 2020. We also have initiatives that are designed to further focus our independent sales channel on our products. We believe these efforts will accelerate growth and market penetration.

- **Driving Awareness with Innovative Direct-to-Patient Education.** Our direct-to-patient initiatives have leveraged growing trends of patient engagement to broadly educate and raise awareness among prospective bunion patients about the benefits of the Lapiplasty Procedure. This patient education program has been effective at reaching prospective bunion patients and directing them to our website. We believe these direct-to-patient programs will create an educated and engaged patient population, enabling us to reach a growing number of the estimated 1.1 million bunion surgical candidates.
- **Building upon our Base of Clinical Evidence to Further Differentiate the Lapiplasty System**. We have generated, and are dedicated to continuing to develop, clinical evidence to support the safety and effectiveness of the Lapiplasty System. Clinical evidence is an important component of many physicians' decision to use, health care facilities' decision to purchase and payors' decision to reimburse for a medical device. In particular, we are finalizing enrollment in our ALIGN3D prospective, multicenter study, which will evaluate outcomes after two years and include patient satisfaction scoring, range of motion results and radiographic results. We believe that the data from our clinical studies will strengthen our ability to continue accelerated adoption of the Lapiplasty Procedure and advance the standard of care for bunion surgery.
- **Increasing Facility Approvals to Provide Even Greater Surgeon Access to our Products.** We currently have approval at over 1,000 facilities across the United States and plan to continue to increase access by convincing even more surgeons and facility administrators that our products are superior alternatives to traditional products used in bunion surgical procedures. While surgeon adoption of the Lapiplasty Procedure remains critical to driving procedure growth, hospital and ambulatory surgery center facility approvals are necessary for both existing and future surgeon customers to access our products. To facilitate greater access to our products and drive future sales growth, we intend to continue educating hospitals and facility administrators on the differentiated benefits associated with the Lapiplasty System, supported by our robust portfolio of clinical data.
- **Developing our Pipeline of Next-Generation Innovations**. Our team and our Surgeon Advisory Board are continually working on next-generation innovations of the Lapiplasty System and related products. In addition to expanding our Lapiplasty offerings with products like the Lapiplasty Mini-Incision System, we are continually exploring opportunities to advance our core Lapiplasty System instrumentation and implants to further improve surgical efficiency, enhance reproducibility of outcomes and speed surgical recovery for patients. We are also pursuing the development and commercialization of new products to address ancillary surgical procedures performed routinely in connection with the Lapiplasty Procedure. By introducing our next-generation innovations, we believe we have an opportunity to leverage and expand our position in the market and add incremental revenue to our business.

While we have no plans to expand operations outside the United States at the present time, significant opportunities for the Lapiplasty System outside the United States exist, subject, in part, to obtaining applicable regulatory approvals.

Our Market

Our Addressable Market Opportunity

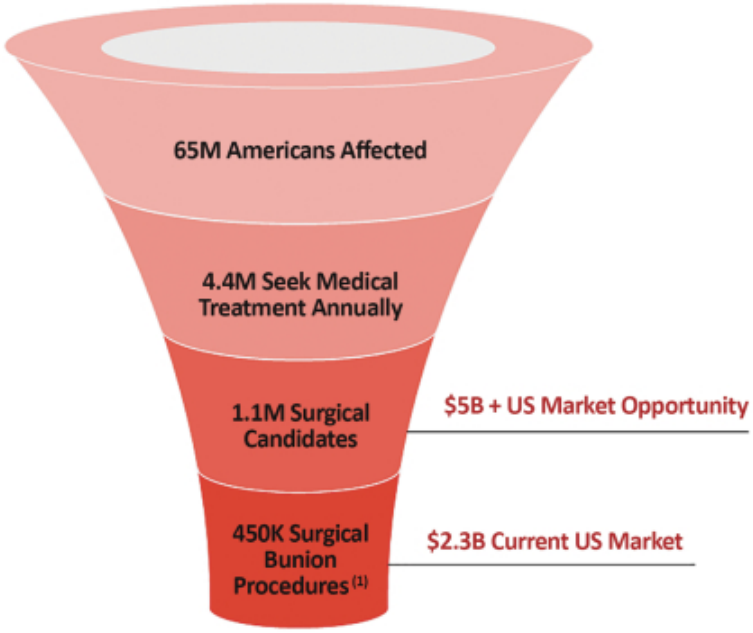
Bunions are a common foot deformity that affect approximately 65 million Americans. Nearly 25% of adults between 18 to 65 years of age, and over 35% of people over the age of 65, have bunions. Given the aging demographics of the U.S. population, we expect the current 4.4 million bunion patients seeking medical attention annually in the United States to continue to grow over time. We estimate that approximately 1.1 million of these patients are deemed surgical candidates once their deformity has progressed to a point that it cannot be treated with non-surgical treatment options. This large patient population often suffers from symptoms that worsen over time, including severe and debilitating pain, emotional burden and limited mobility. Additionally, bunion patients

are susceptible to further degeneration and common concomitant pathologies, including, for example, hammertoe deformity and arthritis of the great toe joint. Despite the significant limitations of current traditional surgical approaches, approximately 450,000 surgical bunion procedures are performed every year.

We have pioneered our proprietary Lapiplasty System—a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery. The majority of bunion surgical procedures attempt to correct the deformity from a two-dimensional perspective and fail to address the root cause, an unstable joint in the middle of the foot. Research indicates that 87% of bunions have a three-dimensional, rotational issue in addition to horizontal and vertical misalignments. To effectively restore the normal anatomy of patients and improve the outcomes of bunion surgical procedures, we believe correcting the deformity across all three anatomic dimensions and focusing on the root cause of the disorder is critical.

Based on the estimated 1.1 million surgical candidates for bunion surgery in the United States each year, we believe a total annual addressable market opportunity of more than $5 billion exists for our Lapiplasty System. Despite the estimated 1.1 million surgical candidates, only approximately 450,000 annual surgical bunion procedures are performed annually in the United States. We believe there is significant opportunity to convert these to our Lapiplasty System, representing a greater than $2.3 billion market opportunity. In addition, through better clinical outcomes and effective patient education, we believe we can increase the number of the patients who seek surgical treatment, representing the incremental opportunity of $3 billion.

The chart below illustrates our annual addressable U.S. market opportunity:



(1) Approximate number of surgical bunion procedures performed in the United States per year

Overview of Bunions

Hallux Valgus (commonly known as bunions) is a painful, disfiguring deformity characterized by a deviated position of the great toe. Bunions are easily identified visually by the "bump" on the joint at the base of the great toe (the metatarsophalangeal (MTP) joint). While this "bump" is widely considered to be the source of pain in bunion sufferers, a structural defect causing misalignment in the middle of the foot is the root cause of the deformity.

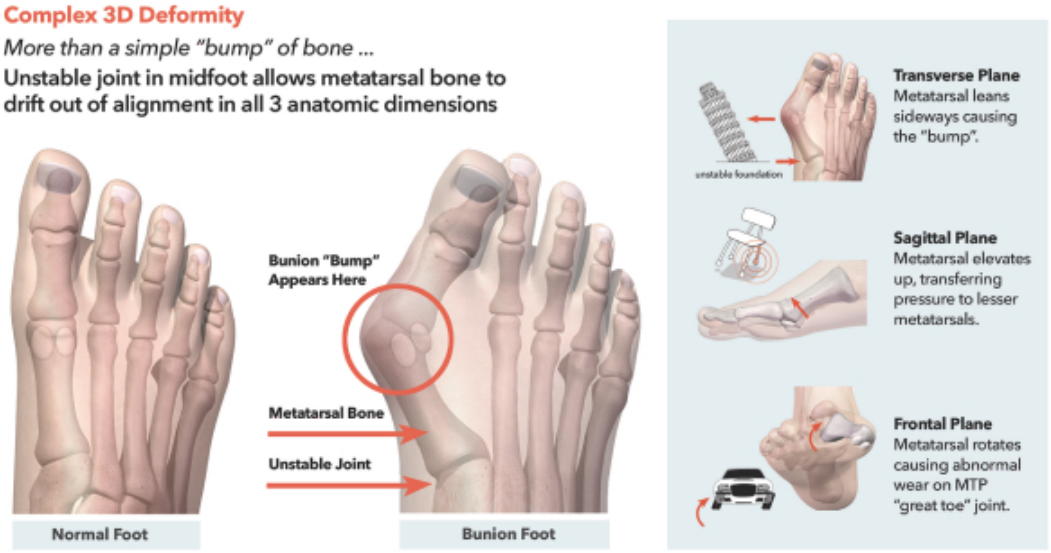
Bunion deformities are most commonly considered to be the consequence of a hereditary predisposition. Prevalence increases with age, and one study found that 70% of bunion sufferers are female, and that the disorder occurs in both feet, or bilaterally, in 56% of bunion sufferers. Bunions are progressive deformities, with symptoms that typically grow in severity over time. For those with predispositions for developing bunions, constrained footwear, weight-bearing activities or occupations that aggravate the condition may accelerate progression of the joint deformity and cause symptoms to appear earlier in life. If left untreated, bunions can often have a significant long-term negative impact on sufferers, including:

- **Severe and debilitating pain** in the bunion "bump" at the base of the great toe that can also develop in the ball of the foot.
- **Quality of life deterioration** with limited mobility, restrictions on footwear and an inability to participate in physical activities.
- **Susceptibility to additional pathologies**, such as hammertoes and arthritis of the great toe joint.
- **Increased risk of injury** as decreased stability leads to greater potential for falls.
- **Emotional burden** from becoming increasingly self-conscious about the bunions' unsightly appearance.

A common misconception is that a bunion is simply an overgrowth of bone that can be shaved off. Bunions are in reality complex 3D deformities caused by an unstable joint in the middle of the foot (the first tarsometatarsal (TMT) joint) which allows the metatarsal bone to drift out of alignment in three anatomic dimensions. These three anatomic dimensions and their associated misalignments are summarized below:

- **Dimension 1–Transverse Plane**: a horizontal misalignment, in which the metatarsal bone leans sideways causing the "bump."
- **Dimension 2–Sagittal Plane**: a vertical misalignment, in which the metatarsal bone can elevate, transferring excessive pressure to other toes and ball of the foot.
- **Dimension 3–Frontal Plane**: a rotational misalignment, in which the metatarsal bone rotates causing abnormal wear on the great toe joint.

The shift in the metatarsal bone causes bone or tissue at the MTP joint to move out of place, resulting in the visual "bump" associated with bunions.



Traditional treatment options for bunion patients vary with the type and severity of each bunion. During the early stages of the disorder, pain can be managed but will typically worsen and additional symptoms may develop. The primary goal of most early treatment options is to relieve pressure on the bunion and halt the progression of the deformity. A physician may initially recommend various non-surgical treatments, including: toe spacers, pads or splints, inserts or orthotics, medication or physical therapy. These options are prescribed to alleviate symptoms, but do not address the root cause of the deformity. When these non-surgical treatments fail, or when the severity of the bunion deformity progresses past the threshold for such options, surgery is often necessary.

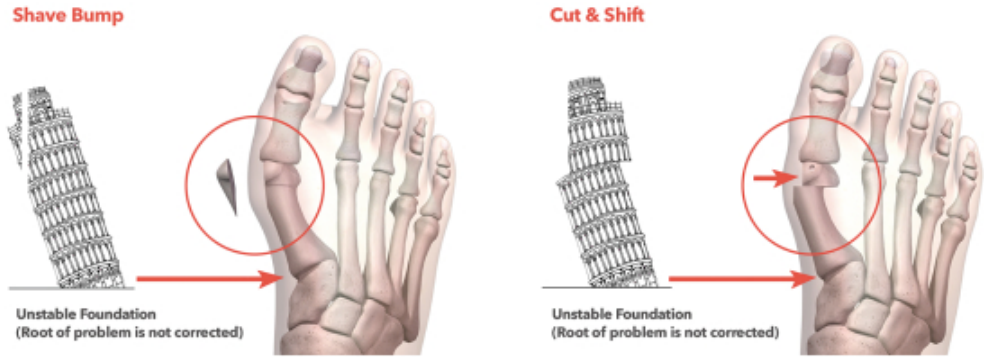
Limitations of Traditional Surgical Treatment Approaches

Historically, there have been two primary surgical approaches to bunion treatment, 2D Osteotomy and Lapidus Fusion. Between the two, approximately 450,000 bunion procedures are performed annually in the United States, of which approximately 75% are 2D Osteotomy procedures and approximately 25% are Lapidus Fusion procedures.

These traditional surgical treatment approaches are characterized by an approximately 30% patient dissatisfaction rate for 2D Osteotomy surgery and a 7% to 13% dissatisfaction rate for Lapidus Fusion following surgery. Clinical literature has identified the primary patient expectations for bunion surgery to be pain relief, shoe fit, mobility and improvement in cosmetic appearance. Certain published long-term clinical studies have demonstrated complication rates as high as 78% following 2D Osteotomy surgery and 46% following Lapidus Fusion surgery, with deformity recurrence being among the most common complications in each. While not all patients with recurrence require a secondary surgical procedure, this recurrence rate relative to other common surgical procedures is glaringly high and a significant contributor to patient dissatisfaction.

2D Osteotomy

In a 2D Osteotomy, the bunion “bump” is shaved off and the metatarsal bone of the great toe is cut in half and shifted over to reduce the appearance of the bunion. However, by failing to address the root cause of the disorder and not correcting the deformity in all three dimensions, there is an increased likelihood that the metatarsal bone will continue to drift out of position over time and for the bunion to return. Additionally, the recovery time has been reported to include up to 6 weeks of non-weight bearing.



Lapidus Fusion

In contrast to 2D Osteotomy, the other common traditional surgical procedure, known as Lapidus Fusion, does address the root cause of the bunion and is routinely referenced in medical literature as a surgical option for bunions since the 1930s. However, even a Lapidus Fusion, as it is conventionally described and performed, still does not address the three dimensional rotational aspect known to contribute to bunion recurrences.

A conventional Lapidus Fusion surgery fuses the unstable first tarsometatarsal (TMT) joint but requires a technically challenging correction through a “freehand” technique and has been reported to involve a protracted period of recovery, including approximately 6 to 8 weeks of non-weight-bearing. The freehand technique is highly dependent on the surgeon’s skill and requires the physician to perform complex corrections without the benefits of assistive instrumentation that are standard in most other orthopaedic joint procedures, and, consequently, this surgery often results in inconsistent outcomes. Thus, its use has been traditionally reserved for the most advanced and severe bunion pathology.

The table below provides a summary overview of traditional bunion surgical treatment approaches:

	2D Osteotomy	Lapidus Fusion
% of cases	Approximately 75%	Approximately 25%
Procedure overview	 Targets cosmetic bump by cutting and shifting metatarsal bone in two dimensions	 Fusion of the first TMT joint to realign the entire metatarsal and the toe joint and prevent the bunion from coming back
Procedure time	25 to 75 minutes	40 to 120 minutes
Recurrence rate	1.8% to 78%, depending on procedure type and follow-up duration	0% to 46%
Reported recovery time	1 day to 6 weeks non-weight bearing (post-operative shoe or boot, some cast)	Long recovery: 6 to 8 weeks non-weight bearing (often in a cast)
Patient dissatisfaction rate	30%	7% to 13%
Limitations	• Does not address all 3 dimensions of the deformity reliably and leaves the unstable foundation untreated	• Technically challenging “freehand” procedure increases inconsistency and variability of result • Primarily 2-plane procedure; does not address the frontal plane rotation problem consistently

While bunions have traditionally been viewed as a 2D deformity, recent scientific literature has indicated that 87% of bunions have a 3D, rotational component in addition to the horizontal and vertical misalignments of the metatarsal bone. Failure to correct this third “rotational” dimension of the bunion deformity has been reported to result in a 10 to 12 times increase in the chance of bunion recurrence as compared to 3D surgeries. We believe there is a rapidly increasing awareness among surgeons of the need for 3D bunion correction based on the frequency of lectures and medical journal publications on this topic, particularly in recent years.

Our Solution

We have pioneered our proprietary Lapiplasty 3D Bunion Correction System—a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery.

Our Lapiplasty System

We believe our Lapiplasty System was the first and remains the leading system designed to consistently and reliably correct all three dimensions of the bunion deformity, address the root cause and allow rapid return to weight-bearing in a post-operative boot. In a Lapiplasty Procedure, the entire metatarsal bone is rotated and brought back into position in all three dimensions, eliminating the unsightly bump and restoring normal anatomy.

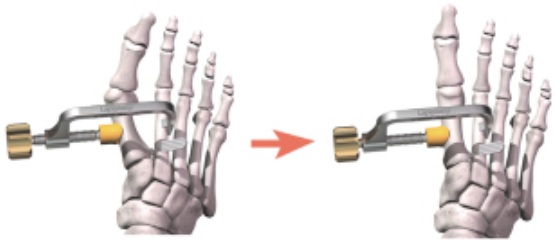
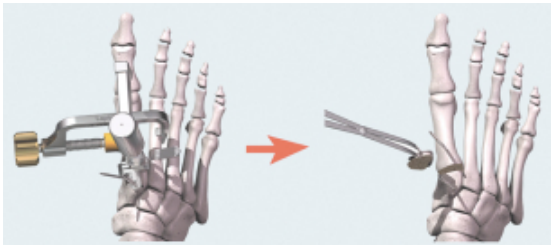
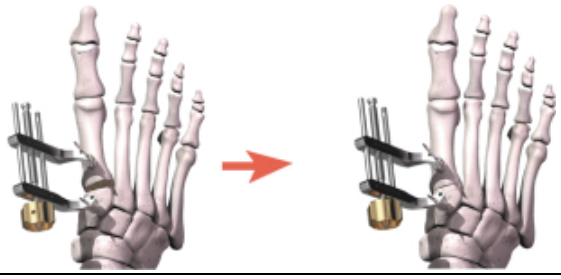
The unstable foundation in the foot is secured with titanium plating technology allowing patients to get back on their feet quickly in a post-operative boot. The Lapiplasty Procedure can be performed on a wide range of patients with bunion deformities in the hospital outpatient or ambulatory surgery center setting, and utilizes existing, well-established reimbursement codes.

The Lapiplasty System includes both procedural instrumentation and single-use, sterile-packed implant kits. Our procedural instrumentation includes novel surgical tools that enable surgeons to correct all three dimensions of the bunion deformity and the root cause of bunions with accuracy and consistency. Our single-use, sterile-packed implant kits feature biplanar plating, which are two low-profile titanium fixation plates designed to stabilize the TMT joint and to allow early weight-bearing in a post-operative boot during the critical healing period.

The following table illustrates key components of the Lapiplasty System:

Procedural instrumentation		Sterile-packed implant kits
Lapiplasty Positioner	**Lapiplasty Compressor**	**Sterile Implants and Instruments**
		
Engineered to quickly and reproducibly correct metatarsal alignment in all three dimensions	*Delivers controlled compression to the precision-cut joint surfaces, while maintaining the three-dimensional correction*	*Single-use implants and instruments used in the Lapiplasty Procedure and ancillary procedures*
Lapiplasty Cut Guide and Fulcrum	**Lapiplasty Light-Weight Tray**	**Biplanar Plating**
		
Delivers precise cuts with the metatarsal held in the corrected position, ensuring optimal cut trajectory	*Includes the Positioner, Compressor and Cut Guide and Fulcrum*	*Provides biomechanically-tested biplanar stability, which are designed to allow rapid return to weight-bearing in a walking boot*

The following table illustrates our patented Lapiplasty System, with procedural instrumentation and implants used in each step of our proprietary Lapiplasty Procedure:

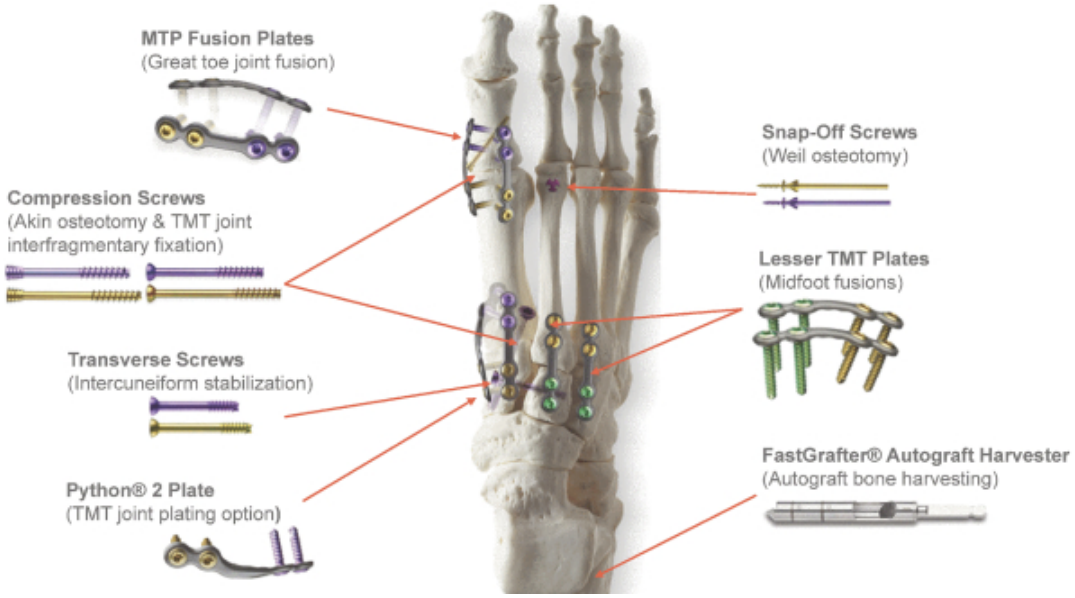
Lapiplasty System	
Correct. Make the correction *before* the cut Using the **Lapiplasty Positioner**, the entire metatarsal bone is returned to normal 3D alignment.	
Cut. Perform precision cuts with confidence Using the **Lapiplasty Cut Guide**, the unstable joint surfaces are cut in the corrected position.	
Compress. Achieve controlled compression of joint surfaces Using the **Lapiplasty Compressor**, the two bone surfaces are brought together while 3D correction is maintained.	
Fixate. Apply biplanar fixation for robust stability Using **Biplanar Plating**, two titanium plates fastened at ninety degree angles, the joint is secured and stabilized, designed to allow for early return to weight-bearing in a post-operative boot while the bones fuse together.	

Our New Lapiplasty Mini-Incision System

Expanding our Lapiplasty offerings, we recently launched the Lapiplasty Mini-Incision System, which is designed to allow the Lapiplasty Procedure to be performed through a miniature, 3.5cm incision as compared to the current 6cm to 8cm incision. Some patients prefer smaller incisions that may leave less visible scars. The Lapiplasty Mini-Incision System includes a new fixation plate known as the PlantarPower Plate. This innovative plate is contoured to span across the bottom half of the joint where the loads are the highest, while still providing easy access for insertion of the plate fixation screws through a small incision. We believe the Lapiplasty Mini-Incision System offers an attractive option for patients and surgeons.

Complementary Ancillary Products

We have also commercialized products to address ancillary surgical procedures performed routinely within a Lapiplasty surgical case, including: Akin osteotomies (procedures to straighten the great toe), Weil osteotomies (procedures to shorten the lesser toes/metatarsals), intercuneiform stabilization (stabilization between the 1st and 2nd cuneiforms), lesser TMT joint fusions and autograft bone harvesting, as well as for MTP (big toe joint) fusion, an option for bunion patients with arthritic big toe joints. Providing these ancillary products allows us to capture a higher percentage of the overall product revenue from the surgical case while providing greater efficiency and synergies to the facility and operating room staff by reducing the number of vendors needed to support the case. These ancillary products are provided in convenient, sterile-packaged kits to allow convenient use when needed during the surgery. The following diagram depicts the ancillary products we currently offer as part of our broader portfolio:



Key Clinical Advantages of the Lapiplasty System

We believe that the differentiated clinical advantages of Lapiplasty will support its continued clinical adoption and help establish our Lapiplasty System as the standard of care for bunion surgery. We are committed to advancing the understanding of the Lapiplasty Procedure and its benefits to patients, surgeons, facilities and payors through clinical studies and publications in peer-reviewed literature. The Lapiplasty Procedure is cited in 15 peer-reviewed journal publications as of December 2020.

The table below includes published results of outcomes of the two traditional bunion surgical approaches, 2D Osteotomy and Lapidus Fusion:

Key outcomes	2D Osteotomy	Lapidus Fusion
Recurrence rate	1.8% – 78%	0 – 46%
Reported time to start weight-bearing	1 – 6 weeks (post-operative boot)	6 weeks – 8 weeks (cast)
Non-union rate*	0 – 4%	2 – 12%
Hardware removal rate	0 – 12%	2 – 17%

**Non-union rate is a measure of the incidence of the bones not healing together.*

The table below includes published results of our outcomes, demonstrating the effectiveness and consistency of the Lapiplasty Procedure:

Key outcomes	Lapiplasty Procedure
Recurrence rate	0.9 – 3.2%
Reported time to start weight-bearing	1 – 11 days (post-operative boot)
Non-union rate*	0 – 2.6%
Hardware removal rate	0 – 3.1%

** Non-union rate is a measure of the incidence of the bones not healing together.*

Based on the outcomes from multiple studies and our deep experience in the field of bunion surgery, we believe the key advantages of the Lapiplasty System include:

- consistent 3D deformity correction;
- addressing root cause of the deformity;
- ease and reproducibility of the procedure;
- faster return to weight-bearing post-surgery in a post-operative boot;
- consistently slimmer foot; and
- low rate of recurrence.

Our differentiated Lapiplasty System is designed to consistently and reliably correct all three dimensions of the bunion deformity and address its root cause, key clinical advantages that have been demonstrated in multiple peer reviewed publications. In comparison, traditional 2D Osteotomy performs an incomplete correction addressing the cosmetic appearance of the bunion rather than the root cause of the deformity. Alternatively, while Lapidus Fusion does seek to address the root cause of the deformity, it does not address the 3D rotational aspect known to contribute to bunion recurrence, and involves a technically challenging “freehand” technique, which is highly dependent on the surgeon’s skill and requires the physician to perform complex corrections without the benefits of assistive instrumentation. The Lapiplasty System includes specifically engineered procedural instrumentation and implants that enable the physician to correct the bunion deformity with accuracy and consistency.

Multiple peer-reviewed publications demonstrate the clinical benefits of the Lapiplasty System, and suggest its superiority relative to traditional approaches to bunion surgery. These publications demonstrate that the Lapiplasty Procedure allows patients to quickly and safely return to weight-bearing in a post-operative boot within 1 to 11 days and experience meaningfully low rates of recurrence (0.9% to 3.2% measured at 17 and 13 months, respectively). In addition, these studies indicate a low-rate in incidence of the bones not healing together (i.e., non-union rate) as well as a low rate of hardware removal. Finally, research also suggests that Lapiplasty may result in a significant decrease in post-operative bony and soft tissue width (i.e., a slimmer foot)—although not an indication for surgery, foot width reduction is often a desirable cosmetic and functional outcome and commonly associated with postoperative patient satisfaction. Given its demonstrated clinical benefits, we believe the Lapiplasty System provides a positive physician and patient experience, and through continued clinical adoption, is poised to become the standard of care for bunion surgery.

The table below summarizes the key advantages of the Lapiplasty System relative to traditional bunion surgical approaches:

	Lapiplasty® 3D Bunion Correction™	Traditional 2D Osteotomy	Traditional Lapidus Fusion
Consistent 3D deformity correction	√	X	X
Addresses root cause of deformity	√	X	√
Ease of procedure / reproducibility	√	√	X
Time to weight-bearing	√	√	X
Consistently slimmer foot	√	X	√
Low rate of recurrence	√	X	√

Our Clinical Data

We have generated, and are dedicated to continuing to develop, clinical evidence to support the safety and effectiveness of the Lapiplasty System. Clinical evidence is an important component of many physicians' decision to use, health care facilities' decision to purchase and payors' decision to reimburse a medical device. We believe that the data from our clinical studies will strengthen our ability to continue accelerated adoption of the Lapiplasty Procedure and advance the standard of care for bunion surgery. We are in the process of enrolling patients for our ALIGN3D post-market clinical study. As described in greater detail below, ALIGN3D is a prospective, multicenter, unblinded clinical study designed to evaluate the ability of the Lapiplasty Procedure to consistently and reliably correct all three dimensions of the bunion deformity and maintain the correction over an extended period of time (with a primary end point of 24 months after surgery and radiographic follow-up to five years).

Peer-Reviewed Publications

The safety, effectiveness and clinical advantages of the Lapiplasty Procedure have been observed in our robust portfolio of clinical data. The Lapiplasty Procedure is cited in 15 peer-reviewed journal publications as of December 2020, including multiple clinical studies which collectively evaluated hundreds of patients across multiple centers in the United States. These publications demonstrate the Lapiplasty Procedure consistently corrects the bunion deformity in all three dimensions and allows the patient to quickly and safely return to weight-bearing (in a post-operative boot).

Below are selected summaries of peer-reviewed journal publications addressing the Lapiplasty Procedure:

- A biomechanical study published in *The Journal of Foot & Ankle Surgery* in 2016 compared Lapiplasty Biplanar Plating to a commonly-used Lapidus anatomic plate and screw construct, demonstrating significant improvements in biomechanical performance under laboratory loading tests designed to simulate post-operative weight-bearing.
- A multicenter, retrospective clinical study in *The Journal of Foot & Ankle Surgery* in 2019 evaluated bone healing with accelerated weight-bearing protocol in patients undergoing the Lapiplasty Procedure or MTP Fusion with the Lapiplasty implants. 195 patients were included with mean follow up of 9.5 months. Patients were allowed to begin weight-bearing in a walking boot approximately five days after the operation. The results demonstrated that 97.4% of patients had successful fusion and 98.9% maintained a stable joint position over the course of the study.
- A multicenter, retrospective clinical study in *Foot & Ankle International* in 2019 evaluated 57 bunion patients (62 feet) treated with the Lapiplasty Procedure and early return to weight-bearing (average 10.9 days post-operation). At average follow-up of 13.5 months, the results demonstrated that 96.8% of study patients maintained their 3D bunion correction, and 1.6% experienced a symptomatic non-union complication.
- A retrospective clinical study in *The Journal of Foot & Ankle Surgery* in 2020 evaluated radiographic outcomes from 108 bunion patients (109 feet) that underwent 3-dimensional first TMT correction using biplanar plating Lapiplasty Procedure and began weight-bearing as tolerated within the first week after surgery. At an average follow up of 17.4 months, the results demonstrated all patients achieved successful fusion of the joint, with 99.1% of patients maintaining their 3D bunion correction (0.9% recurrence rate) and no hardware failures reported.
- A multicenter, retrospective clinical study in *Foot & Ankle Orthopaedics* in 2020 evaluated 144 bunion patients (148 feet) who underwent the Lapiplasty Procedure. All patients demonstrated a decrease in foot width after surgery. Bony width decreased by 10.4 mm (10.8%) post-operatively, whereas soft tissue width decreased 7.3 mm (6.8%) post-operatively.

ALIGN3D Prospective Clinical Study

The ALIGN3D post-market clinical study is a prospective, multicenter, unblinded study to evaluate Lapiplasty Procedure patient outcomes. The ALIGN3D study is designed to evaluate the ability of the Lapiplasty Procedure to:

1. Consistently and reliably correct all three dimensions of the bunion deformity.
2. Maintain the correction following accelerated return to weight-bearing.
3. Quantify improvement in patient quality of life.

We initiated patient enrollment for the ALIGN3D clinical study in November 2018 and are actively enrolling patients. The ALIGN3D study will enroll up to 200 patients. As of January 29, 2021, 162 patients have been enrolled and have undergone the Lapiplasty procedure. The mean age of currently-enrolled patients is 41 years, with an age range of 14 to 58.

The ALIGN3D study will involve seven clinical sites and will follow patients for 24 months after surgery with radiographic follow-ups for 5 years The Primary Endpoint of the ALIGN3D study is whether the 3D correction is maintained at 24 months follow up. The Secondary Endpoints of the ALIGN3D study will track the time to start of weight-bearing (in a post-operative boot or shoe), maintenance of 3D correction (over 5 years), fusion rate, quality of life (as measured by VAS pain scores, the MoXFQ and PROMIS-29 quality of life scales) and range of motion of the great toe joint.

We presented interim results from the ALIGN3D study at the American Orthopedic Foot & Ankle Society conference in September 2020. Specifically, the interim results indicated that the average number of days for patients to be able to bear weight in a boot was eight days, the average number of days for a patient to return to work was 19 days (full work at approximately 41 days) and the average number of days to return to unrestricted activity was approximately 115 days, in each case, post-Lapiplasty Procedure. In addition, we reported that the interim results indicated dramatic improvements in reported outcome scores and a low complication rate. These interim data were based on results from 74 patients at six weeks, 62 patients at six months and 26 patients at 12 months. We intend to present updated data at the American College of Foot & Ankle Surgeons in May 2021.

Commercial Strategy

We currently market and sell the Lapiplasty System through a combination of a direct employee sales force and independent sales agents across 98 territories in the United States. As of December 31, 2020, we had 34 direct sales representatives, eight regional sales vice presidents who are responsible for managing the sales representatives and 59 independent sales agents. In 2020, employee sales representatives generated approximately 35% of revenues while approximately 65% of revenues came through independent sales agents.

We are dedicating meaningful resources to expand our sales force and management team in the United States. We are hiring additional direct sales representatives and employee field sales management to strategically access more regions with high densities of prospective patients. We also have initiatives that are designed to further focus our independent sales channel on our products. We believe this strategy will:

- accelerate growth and better penetrate the market with our products;
- further align incentives and allow for improved coordination of our sales team; and
- improve profitability with better operating leverage in the longer term.

We believe our surgeon education and training programs differentiate us from our competitors. We devote significant resources to training and educating physicians on the safe and effective use of the Lapiplasty System. Our comprehensive education programs include cadaveric workshops, technical assistance in the operating room and advanced training for both new and existing surgeon customers. Our multiple post-market clinical outcome studies are also unique in the bunion correction field and are a key element of our medical education program.

Our practice is to require surgeons to complete a simulated surgical training program before performing the Lapiplasty Procedure. To facilitate this training, we have developed a robust curriculum including clinical and procedural details as well as hands-on surgical workshops designed to simulate a live surgical procedure. These training events incorporate highly-skilled training personnel including experienced surgeon faculty and clinical specialists. Additionally, we host ongoing peer-to-peer advanced educational training programs to continue to develop the expertise of our surgeon customers, which include monthly online “Mastery Webinar” series and hands-on workshops with experienced faculty surgeons that cover more advanced Lapiplasty techniques and training on our newly developed products and procedures. Our training programs are complemented by seven clinical specialists that assist with surgeon training and live surgery support with new surgeon users. We believe that our surgeon education programs are effective and they are intended to result in surgeon users improving their skill and familiarity with the Lapiplasty Procedure and improved clinical outcomes for their patients.

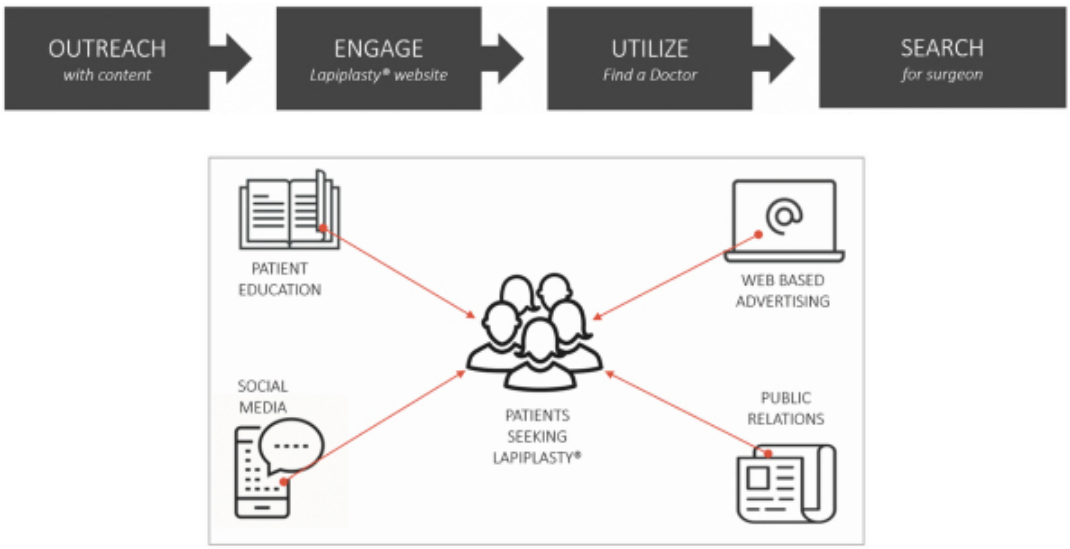
If our products have been approved by the surgical facility, surgeons generally can perform their first case as soon as the first day of their training. Obtaining facility approval may delay surgeon access to our products for 30 to 120 days depending on the nature of the facility (or integrated delivery network’s) approval process.

Surgeon users typically increase usage of the Lapiplasty Procedure over time as they see improved clinical outcomes for their patients relative to traditional bunion surgery approaches. The bar chart below shows the average number of procedures performed by surgeons in 2020 based on the year in which the surgeons performed their first case.

We believe our offering is differentiated by supporting surgeons with knowledgeable clinical specialists and direct sales employees who are experts in the Lapiplasty Procedure. These employees receive in-depth training to develop a thorough understanding of bunions, patient selection, procedure planning and regulatory policies to meaningfully support continued clinical adoption and existing surgeon customers. Our clinical specialists and direct sales employees participate in continuous education programs that consist of in-person foundational training, procedure observation and sales skills development. These employees are a key resource for our surgeon customers and their expertise enables them to provide meaningful clinical and technical support in the operating room and to develop strong relationships with surgeons. We believe that our approach to supporting surgeons leads to better clinical outcomes for patients.

Our direct-to-patient outreach program is a key aspect of our commercial strategy. This program is focused on educating patients on the clinical advantages of the Lapiplasty Procedure and generating brand awareness. We are working to further establish brand recognition for Lapiplasty as the leading procedure for improving bunion treatment outcomes in an industry that has traditionally not conducted significant direct-to-patient programs. We have built a sophisticated marketing infrastructure to deliver our message in a targeted manner utilizing digital and traditional marketing channels. These programs direct potential bunion surgical candidates to our educational website that further explains the Lapiplasty Procedure and its related benefits. Our “Find a Doctor” tool allows them to search for experienced Lapiplasty Procedure surgeons in their local markets.

The following diagram illustrates our patient outreach program.



Research and Development

We use internal employee engineering personnel and our Surgeon Advisory Board to generate ideas and develop product innovations. Our Surgeon Advisory Board is comprised of both podiatrists and orthopaedic foot and ankle surgeons who provide us with holistic insights for developing products that fully meet the needs of each group. Our development team is focused on improving clinical outcomes by designing new procedure-specific products and by developing enhanced surgical techniques in attractive subspecialties within the foot and ankle market.

Our initial product development and commercial efforts have been solely focused on the bunion market, and our Lapiplasty System specifically. We intend to continue iterating our core Lapiplasty System instrumentation and implants to improve surgical efficiency, enhance reproducibility of outcomes and speed up surgical recovery for patients. We are also pursuing the development and potential commercialization, if cleared, of new products that we believe would leverage and expand our position in the market to treat other concomitant pathologies that occur in a high percentage of bunion surgeries. Products provided by other companies are currently utilized in some of our Lapiplasty Procedure cases to treat these concomitant conditions. Providing these ancillary products allows us to capture a higher percentage of the overall product revenue from the surgical case while providing greater efficiency and synergies to the facility and operating room staff by reducing the number of vendors needed to support the case.

For the fiscal years ended December 31, 2019 and 2020, our research, development and clinical expenses were $5.1 million and $5.8 million, respectively.

Coverage and Reimbursement

The Lapiplasty Procedure is performed by foot and ankle surgeons in both hospital outpatient facilities and ambulatory surgery centers. Hospitals, ambulatory surgery center and surgeons that purchase or use our products generally rely on third-party payors to reimburse for all or part of the costs and fees associated with procedures using our products. As a result, sales of our products depend, in part, on the extent to which the procedures using our products are covered by third-party payors, including government programs such as Medicare and Medicaid, private insurance plans and managed care programs. Based on historical claims data from 2017, approximately 63% of Lapidus cases and 60% of all bunion surgical cases were paid by private payors.

Medicare publishes national average rates for each procedure in the hospital outpatient and ambulatory surgery center settings. Medicare rates for procedures involving our products may vary from national averages due to geographic location, the nature of facility in which the procedure is performed (i.e., teaching or community hospital) and other factors. While private payors vary in their coverage and payment policies, many use coverage and payment by Medicare as a benchmark to make their own decisions.

Coding and Reimbursement

When procedures using our products are performed in hospital outpatient or ambulatory surgery center settings, both the surgeon and the health care facility submit claims (bills) for payment to the third-party payor using established medical codes (e.g., CPT codes, diagnosis codes and HCPCS codes) that describe the patient history and medical and surgical treatments. Obtaining appropriate payment for services is dependent in part on the physician and health care facility reporting or billing the CPT code that accurately describes the procedures performed in the case.

The table below sets forth the established CPT Codes that are commonly used for Lapidus-type surgeries, including the Lapiplasty Procedure.

Established CPT Codes	
CPT 28297	Correction, bunionectomy, with sesamoidectomy, when performed; with first metatarsal and medial cuneiform joint arthrodesis, any method
CPT 28730	Arthrodesis, midtarsal or tarsometatarsal, multiple or transverse
CPT 28740	Arthrodesis, midtarsal or tarsometatarsal, single joint

Bunion surgery also often involves multiple concomitant procedures, including Akin osteotomy, Weil osteotomy and hammertoe correction, for example. Each concomitant procedure has an applicable CPT code used for billing third-party payors, which is submitted on the same claim with the Lapiplasty Procedure for reimbursement.

Intellectual Property

We actively seek to protect the technology, inventions and improvements that we consider important to our business using patents, trade secrets, trademarks and copyrights in the United States and foreign markets.

As of December 31, 2020, our patent portfolio included 21 owned patents and one licensed patent. All of these patents are U.S. utility patents. The 21 owned patents cover core Lapiplasty-related hardware and surgical techniques as well as other associated innovations. For example, of the 21 owned patents, five relate to the main surgical techniques used by the Lapiplasty Procedure and seven other patents relate to associated tools, techniques and/or implants used during the procedure. We have not been involved in any contested proceedings regarding our granted patents nor have we received any third-party claims related to the patents.

As of December 31, 2020 we had 50 pending patent applications globally, including 27 in the United States. Outside of the United States we have patent applications pending in Australia, Canada, Europe (before the European Patent Office) and Japan as well as through the Patent Cooperation Treaty (PCT). Our owned patents expire in 2035 or later. We have also obtained an exclusive license with respect to a third-party United States patent application that has now matured into a granted patent. This licensed patent expires in 2034. The pending patent applications are intended to exclude competitors from practicing the innovations of our currently marketed product offering and to protect potential future commercialization opportunities and to strategically block potential workarounds by competitors.

We have U.S. trademark registrations for several of our most important marks, including “Treace Medical Concepts®,” the “Treace Medical Concepts®” logo, “Lapiplasty®,” “Fast Grafter®” and “Plantar Python®”. We also have pending U.S. trademark registrations on other valuable marks, including “Align My Toe™,” “The Future of Hallux Valgus™” and “Fix It Right The First Time™.”

The term of individual patents depends on the legal term for patents in the countries in which they are granted. In most countries, including the United States, the patent term is generally 20 years from the earliest claimed filing date of a nonprovisional patent application in the applicable country. We cannot assure that patents will be issued from any of our pending applications or that, if patents are issued, they will be of sufficient scope or strength to provide meaningful protection for our technology. Notwithstanding the scope of the patent protection available to us, a competitor could develop treatment methods or devices that are not covered by our patents. Furthermore, numerous U.S. and foreign-issued patents and patent applications owned by third parties exist in the fields in which we are developing products. Because patent applications can take many years to issue, there may be applications unknown to us, which applications may later result in issued patents that our existing or future products or technologies may be alleged to infringe.

There has been substantial litigation regarding patent and other intellectual property rights in the medical device industry. In the future, we may need to engage in litigation to enforce patents issued or licensed to us, to protect our trade secrets or know-how, to defend against claims of infringement of the rights of others or to determine the scope and validity of the proprietary rights of others. Litigation could be costly and could divert our attention from other functions and responsibilities. Furthermore, even if our patents are found to be valid and infringed, a court may refuse to grant injunctive relief against the infringer and instead grant us monetary damages and/or ongoing royalties. Such monetary compensation may be insufficient to adequately offset the damage to our business caused by the infringer’s competition in the market.

Adverse determinations in litigation could subject us to significant liabilities to third parties, could require us to seek licenses from third parties and could prevent us from manufacturing, selling or using our product or techniques, any of which could severely harm our business.

Our knowledge and experience, creative product development, marketing staff and trade secret information, with respect to manufacturing processes, materials and product design, are as important as our patents in maintaining our proprietary product lines. As a condition of employment, we require all employees and key contractors to execute an agreement obligating them to maintain the confidentiality of our proprietary information and assign to us inventions and other intellectual property created during their employment. For more information, please see “Risk Factors—Risks Related to Intellectual Property.”

Royalty and License Agreements

We have entered into product development and fee for service agreements with members of our Surgeon Advisory Board that specify the terms under which the member is compensated for his or her consulting services and grants us rights to the intellectual property created by the member in the course of such services. As products are commercialized with the assistance of members of the Surgeon Advisory Board, we may agree to enter into a royalty agreement if the member’s contributions to the product are novel, significant and innovative.

We have entered royalty agreements with certain members of our Surgeon Advisory Board providing for royalties based on each individual’s level of contribution. Each royalty agreement: (i) confirms the irrevocable transfer to us of all pertinent intellectual property rights; (ii) sets the applicable royalty rate; (iii) sets the period of time during which royalties are payable; (iv) is for a term of three years, renewable by the parties, and may be terminated by either party on 90 days’ notice for convenience (provided that if terminated by the Company for convenience the obligation to pay royalties is not affected); and (v) prohibits the payment of royalties on products sold to entities and/or individuals with whom the surgeon advisor or any other surgeon advisor entitled to royalties is affiliated. Each of the royalty agreements may be subsequently amended to add the license of

additional intellectual property covering new products, and as a result, multiple royalty rates and duration of royalty payments may be included in one royalty agreement.

As of December 31, 2020, our royalty agreements provide for (i) royalty payments for 10 years from first commercial sale of the relevant product and (ii) a royalty rate for each such agreement ranging from 0.5% to 3% of net sales for the particular product to which the surgeon contributed.

We paid royalties of $1.7 million and $2.4 million for the years ended December 31, 2019 and 2020, respectively, resulting in an aggregate royalty rate of 4.3% and 4.1% for the years ended December 31, 2019 and 2020, respectively.

Manufacturing and Supply

We currently leverage third-party manufacturing relationships to ensure low cost production while maintaining a capital efficient business model. We have no long-term supply contracts and multiple sources of supply for critical components of the Lapiplasty System. Our supply agreements do not have minimum manufacturing or purchase obligations. As such, we have no obligations to buy any given quantity of products, and our suppliers have no obligation to sell us or to manufacture for us any given quantity of our products or components for our products. In most cases, we have redundant manufacturing capabilities for each of our products. To date, we have not experienced any significant difficulty obtaining our products or components for our products necessary to meet demand, and we have only experienced limited instances where our suppliers had difficulty supplying products by the requested delivery date. We believe manufacturing capacity is sufficient to meet market demand for our products for the foreseeable future.

The suppliers for the Lapiplasty System are evaluated, qualified and approved through our supplier management program, which includes various evaluations, assessments, qualifications, validations, testing and inspection to ensure the supplier can meet acceptable quality requirements. We implement a robust change control policy with our key suppliers to ensure that no component or process changes are made without our prior approval.

Order quantities and lead times for components purchased from suppliers are based on our forecasts derived from both historical demand and anticipated future demand. Lead times for components may vary depending on the size of the order, time required to fabricate, specific supplier requirements and current market demand for the components, sub-assemblies and materials.

Competition

Our industry is competitive, subject to technological change and significantly affected by new product introductions and market activities of other industry participants. Our existing products are, and any future products we commercialize will be, subject to competition. We believe the principal competitive factors in our markets include:

- The quality of outcomes and adverse event rates.
- Patient experience, including patient recovery time and level of discomfort.
- Acceptance by surgeons, hospitals and other health care providers.
- Physician learning curves and willingness to adopt new techniques.
- Ease of use and reliability.
- Strength of clinical evidence.
- Economic benefits and cost savings.
- Strength and scope of intellectual property protections.

- Effective distribution and marketing to surgeons and potential patients.
- Product price and qualification for coverage and reimbursement.
- Speed to market.
- Surgeon training and medical education programs.

Our competition includes medical device manufacturers in the orthopaedic foot and ankle market. Stryker Corporation is currently the leader in the orthopaedic foot and ankle market and has significant market share following its acquisition of Wright Medical in November 2020. Additional companies operating in the orthopaedic foot and ankle market specifically focused on 3D Lapidus surgery include CrossRoads Extremity Systems, Nextremity Solutions, Inc., Zimmer Biomet Holdings, Inc. and Paragon 28, Inc. We also compete with companies in the orthopaedic foot and ankle market that manufacture ancillary products, including DePuy Synthes Products, Inc., a Johnson & Johnson subsidiary, Arthrex, Inc., Smith & Nephew and Exactech, Inc. While foot and ankle product sales represent a relatively small percentage of our larger competitors' overall sales, many recognize the growth opportunities in this market and have been active in product additions through both internal development efforts and acquisitions.

Our competitors may have significantly greater financial resources, established presence in the market, expertise in research and development, manufacturing, preclinical and clinical testing, obtaining regulatory approvals and reimbursement and marketing approved products than we do. These competitors also compete with us in recruiting and retaining qualified research & development, sales, marketing and management personnel, establishing clinical sites and patient registration for clinical studies, as well as in acquiring technologies complementary to, or necessary for, our programs. Smaller or early-stage companies may also prove to be significant competitors. In addition to competing for market share for the Lapiplasty Procedure, we also compete against these companies for personnel, including qualified personnel that are necessary to grow our business.

Finally, we may compete with medical device manufacturers outside the United States if and when we pursue plans to market our products internationally. Among other competitive advantages, such companies may have more established sales and marketing programs and networks, established relationships with health care professionals and greater name recognition in such markets.

Government Regulation

Our products and our operations are subject to extensive regulation by the U.S. Food and Drug Administration (FDA) and other federal and state authorities in the United States, as well as comparable authorities in foreign jurisdictions. Our products are subject to regulation as medical devices in the United States under the Federal Food, Drug, and Cosmetic Act (FDCA) as implemented and enforced by the FDA.

United States Regulation

The FDA regulates the development, design, non-clinical and clinical research, manufacturing, safety, efficacy, labeling, packaging, storage, installation, servicing, recordkeeping, premarket clearance or approval, adverse event reporting, advertising, promotion, marketing and distribution, and import and export of medical devices to ensure that medical devices distributed domestically are safe and effective for their intended uses and otherwise meet the requirements of the FDCA.

FDA Premarket Clearance and Approval Requirements

Unless an exemption applies, each medical device commercially distributed in the United States requires either FDA clearance of a 510(k) premarket notification, or approval of a PMA. Under the FDCA, medical devices are classified into one of three classes—Class I, Class II or Class III—depending on the degree of risk associated with each medical device and the extent of manufacturer and regulatory control needed to ensure its

safety and effectiveness. Class I includes devices with the lowest risk to the patient and are those for which safety and effectiveness can be assured by adherence to the FDA's General Controls for medical devices, which include compliance with the applicable portions of the QSR, facility registration and product listing, reporting of adverse medical events, and truthful and non-misleading labeling, advertising, and promotional materials. Class II devices are subject to the FDA's General Controls, and special controls as deemed necessary by the FDA to ensure the safety and effectiveness of the device. These special controls can include performance standards, post-market surveillance, patient registries and FDA guidance documents.

While most Class I devices are exempt from the 510(k) premarket notification requirement, manufacturers of most Class II devices are required to submit to the FDA a premarket notification under Section 510(k) of the FDCA requesting permission to commercially distribute the device. The FDA's permission to commercially distribute a device subject to a 510(k) premarket notification is generally known as 510(k) clearance. Devices deemed by the FDA to pose the greatest risks, such as life sustaining, life supporting or some implantable devices, or devices that have a new intended use, or use advanced technology that is not substantially equivalent to that of a legally marketed device, are placed in Class III, requiring approval of a PMA. Some pre-amendment devices are unclassified, but are subject to FDA's premarket notification and clearance process in order to be commercially distributed. Our currently marketed products are Class II devices subject to 510(k) clearance, and we are in the process of pursuing approval of one of our product candidates under a PMA.

510(k) Clearance Marketing Pathway

Our current products are subject to premarket notification and clearance under section 510(k) of the FDCA. To obtain 510(k) clearance, we must submit to the FDA a premarket notification submission demonstrating that the proposed device is "substantially equivalent" to a legally marketed predicate device. A predicate device is a legally marketed device that is not subject to premarket approval, i.e., a device that was legally marketed before May 28, 1976 (pre-amendments device) and for which a PMA is not required, a device that has been reclassified from Class III to Class II or I, or a device that was found substantially equivalent through the 510(k) process. The FDA's 510(k) clearance process usually takes from three to twelve months, but may take longer. The FDA may require additional information, including clinical data, to make a determination regarding substantial equivalence. In addition, FDA collects user fees for certain medical device submissions and annual fees for medical device establishments. For fiscal year 2021, the standard user fee for a 510(k) premarket notification application is $12,432.

If the FDA agrees that the device is substantially equivalent to a predicate device currently on the market, it will grant 510(k) clearance to commercially market the device. If the FDA determines that the device is "not substantially equivalent" to a previously cleared device, the device is automatically designated as a Class III device. The device sponsor must then fulfill more rigorous PMA requirements, or can request a risk-based classification determination for the device in accordance with the "*de novo*" process, which is a route to market for novel medical devices that are low to moderate risk and are not substantially equivalent to a predicate device.

After a device receives 510(k) clearance, any modification that could significantly affect its safety or effectiveness, or that would constitute a major change or modification in its intended use, will require a new 510(k) clearance or, depending on the modification, PMA approval or *de novo* classification. The FDA requires each manufacturer to determine whether the proposed change requires submission of a 510(k), *de novo* classification or a PMA in the first instance, but the FDA can review any such decision and disagree with a manufacturer's determination. If the FDA disagrees with a manufacturer's determination, the FDA can require the manufacturer to cease marketing and/or request the recall of the modified device until 510(k) marketing clearance, approval of a PMA, or issuance of a *de novo* classification. Also, in these circumstances, the manufacturer may be subject to significant regulatory fines or penalties.

Over the last several years, the FDA has proposed reforms to its 510(k) clearance process, and such proposals could include increased requirements for clinical data and a longer review period, or could make it more difficult for manufacturers to utilize the 510(k) clearance process for their products. For example, in

November 2018, FDA officials announced steps that the FDA intended to take to modernize the premarket notification pathway under Section 510(k) of the FDCA. Among other things, the FDA announced that it planned to develop proposals to drive manufacturers utilizing the 510(k) pathway toward the use of newer predicates. These proposals included plans to potentially sunset certain older devices that were used as predicates under the 510(k) clearance pathway, and to potentially publish a list of devices that have been cleared on the basis of demonstrated substantial equivalence to predicate devices that are more than 10 years old. These proposals have not yet been finalized or adopted, although the FDA may work with Congress to implement such proposals through legislation.

More recently, in September 2019, the FDA issued revised final guidance describing an optional "safety and performance based" premarket review pathway for manufacturers of "certain, well-understood device types" to demonstrate substantial equivalence under the 510(k) clearance pathway by showing that such device meets objective safety and performance criteria established by the FDA, thereby obviating the need for manufacturers to compare the safety and performance of their medical devices to specific predicate devices in the clearance process. The FDA has developed and maintains a list device types appropriate for the "safety and performance based" pathway and continues to develop product-specific guidance documents that identify the performance criteria for each such device type, as well as the testing methods recommended in the guidance documents, where feasible.

PMA Approval Pathway

Class III devices require PMA approval before they can be marketed, although some pre-amendment Class III devices for which FDA has not yet required a PMA are cleared through the 510(k) process. The PMA process is more demanding than the 510(k) premarket notification process. In a PMA, the manufacturer must demonstrate that the device is safe and effective, and the PMA must be supported by extensive data, including data from preclinical studies and human clinical trials. The PMA must also contain a full description of the device and its components, a full description of the methods, facilities, and controls used for manufacturing, and proposed labeling. Following receipt of a PMA, the FDA determines whether the application is sufficiently complete to permit a substantive review. If FDA accepts the application for review, it has 180 days under the FDCA to complete its review of a PMA, although in practice, the FDA's review often takes significantly longer, and can take up to several years. An advisory panel of experts from outside the FDA may be convened to review and evaluate the application and provide recommendations to the FDA as to the approvability of the device. The FDA may or may not accept the panel's recommendation. In addition, the FDA will generally conduct a pre-approval inspection of the applicant or its third-party manufacturers' or suppliers' manufacturing facility or facilities to ensure compliance with the QSR. PMA applications are also subject to the payment of user fees, which for fiscal year 2021 includes a standard application fee of $365,657.

The FDA will approve the new device for commercial distribution if it determines that the data and information in the PMA constitute valid scientific evidence and that there is reasonable assurance that the device is safe and effective for its intended use(s). The FDA may approve a PMA with post-approval conditions intended to ensure the safety and effectiveness of the device, including, among other things, restrictions on labeling, promotion, sale and distribution, and collection of long-term follow-up data from patients in the clinical study that supported PMA approval or requirements to conduct additional clinical studies post-approval. The FDA may condition PMA approval on some form of post-market surveillance when deemed necessary to protect the public health or to provide additional safety and efficacy data for the device in a larger population or for a longer period of use. In such cases, the manufacturer might be required to follow certain patient groups for a number of years and to make periodic reports to the FDA on the clinical status of those patients. Failure to comply with the conditions of approval can result in material adverse enforcement action, including withdrawal of the approval.

Certain changes to an approved device, such as changes in manufacturing facilities, methods, or quality control procedures, or changes in the design performance specifications, which affect the safety or effectiveness of the device, require submission of a PMA supplement. PMA supplements often require submission of the same type of information as a PMA, except that the supplement is limited to information needed to support any changes from the device covered by the original PMA and may not require as extensive clinical data or the convening of an advisory panel. Certain other changes to an approved device require the submission of a new PMA, such as when the design change causes a different intended use, mode of operation, and technical basis of operation, or when the design change is so significant that a new generation of the device will be developed, and the data that were submitted with the original PMA are not applicable for the change in demonstrating a reasonable assurance of safety and effectiveness. None of our products are currently marketed pursuant to a PMA.

Clinical Trials

Clinical trials are almost always required to support a PMA and are sometimes required to support a 510(k) submission. All clinical investigations of devices to determine safety and effectiveness must be conducted in accordance with the FDA's investigational device exemption (IDE) regulations which govern investigational device labeling, prohibit promotion of the investigational device, and specify an array of recordkeeping, reporting and monitoring responsibilities of study sponsors and study investigators. If the device presents a "significant risk," to human health, as defined by the FDA, the FDA requires the device sponsor to submit an IDE application to the FDA, which must become effective before commencing human clinical trials. If the device under evaluation does not present a significant risk to human health, then the device sponsor is not required to submit an IDE application to the FDA before initiating human clinical trials, but must still comply with abbreviated IDE requirements when conducting such trials. A significant risk device is one that presents a potential for serious risk to the health, safety or welfare of a patient and either is implanted, used in supporting or sustaining human life, substantially important in diagnosing, curing, mitigating or treating disease or otherwise preventing impairment of human health, or otherwise presents a potential for serious risk to a subject. An IDE application must be supported by appropriate data, such as animal and laboratory test results, showing that it is safe to test the device in humans and that the testing protocol is scientifically sound. The IDE will automatically become effective 30 days after receipt by the FDA unless the FDA notifies the company that the investigation may not begin. If the FDA determines that there are deficiencies or other concerns with an IDE for which it requires modification, the FDA may permit a clinical trial to proceed under a conditional approval.

Regardless of the degree of risk presented by the medical device, clinical studies must be approved by, and conducted under the oversight of, an Institutional Review Board (IRB) for each clinical site. The IRB is responsible for the initial and continuing review of the IDE, and may pose additional requirements for the conduct of the study. If an IDE application is approved by the FDA and one or more IRBs, human clinical trials may begin at a specific number of investigational sites with a specific number of patients, as approved by the FDA. If the device presents a non-significant risk to the patient, a sponsor may begin the clinical trial after obtaining approval for the trial by one or more IRBs without separate approval from the FDA, but must still follow abbreviated IDE requirements, such as monitoring the investigation, ensuring that the investigators obtain informed consent, and labeling and record-keeping requirements. Acceptance of an IDE application for review does not guarantee that the FDA will allow the IDE to become effective and, if it does become effective, the FDA may or may not determine that the data derived from the trials support the safety and effectiveness of the device or warrant the continuation of clinical trials. An IDE supplement must be submitted to, and approved by, the FDA before a sponsor or investigator may make a change to the investigational plan that may affect its scientific soundness, study plan or the rights, safety or welfare of human subjects.

During a study, the sponsor is required to comply with the applicable FDA requirements, including, for example, trial monitoring, selecting clinical investigators and providing them with the investigational plan, ensuring IRB review, adverse event reporting, record keeping and prohibitions on the promotion of investigational devices or on making safety or effectiveness claims for them. The clinical investigators in the

clinical study are also subject to FDA's regulations and must obtain patient informed consent, rigorously follow the investigational plan and study protocol, control the disposition of the investigational device, and comply with all reporting and recordkeeping requirements. Additionally, after a trial begins, we, the FDA or the IRB could suspend or terminate a clinical trial at any time for various reasons, including a belief that the risks to study subjects outweigh the anticipated benefits.

Post-Market Regulation

After a device is cleared or approved for marketing, numerous and pervasive regulatory requirements continue to apply. These include:

- establishment registration and device listing with the FDA;
- QSR requirements, which require manufacturers, including third-party manufacturers, to follow stringent design, testing, control, documentation and other quality assurance procedures during all aspects of the design and manufacturing process;
- labeling regulations and FDA prohibitions against the promotion of investigational products, or the promotion of "off-label" uses of cleared or approved products;
- requirements related to promotional activities;
- clearance or approval of product modifications to 510(k)-cleared devices that could significantly affect safety or effectiveness or that would constitute a major change in intended use of one of our cleared devices, or approval of certain modifications to PMA-approved devices;
- medical device reporting regulations, which require that a manufacturer report to the FDA if a device it markets may have caused or contributed to a death or serious injury, or has malfunctioned and the device or a similar device that it markets would be likely to cause or contribute to a death or serious injury, if the malfunction were to recur;
- correction, removal and recall reporting regulations, which require that manufacturers report to the FDA field corrections and product recalls or removals if undertaken to reduce a risk to health posed by the device or to remedy a violation of the FDCA that may present a risk to health;
- the FDA's recall authority, whereby the agency can order device manufacturers to recall from the market a product that is in violation of governing laws and regulations; and
- post-market surveillance activities and regulations, which apply when deemed by the FDA to be necessary to protect the public health or to provide additional safety and effectiveness data for the device.

Manufacturing processes for medical devices are required to comply with the applicable portions of the QSR, which cover the methods and the facilities and controls for the design, manufacture, testing, production, processes, controls, quality assurance, labeling, packaging, distribution, installation and servicing of finished devices intended for human use. The QSR also requires, among other things, maintenance of a device master file, device history file, and complaint files. As a manufacturer, we are subject to periodic scheduled or unscheduled inspections by the FDA. Failure to maintain compliance with the QSR requirements could result in the shut-down of, or restrictions on, manufacturing operations and the recall or seizure of marketed products. The discovery of previously unknown problems with any marketed products, including unanticipated adverse events or adverse events of increasing severity or frequency, whether resulting from the use of the device within the scope of its clearance or off-label by a physician in the practice of medicine, could result in restrictions on the device, including the removal of the product from the market or voluntary or mandatory device recalls.

The FDA has broad regulatory compliance and enforcement powers. If the FDA determines that a manufacturer has failed to comply with applicable regulatory requirements, it can take a variety of compliance or enforcement actions, which may result in any of the following sanctions:

- warning letters, untitled letters, fines, injunctions, consent decrees and civil penalties;
- recalls, withdrawals, or administrative detention or seizure of our products;
- operating restrictions or partial suspension or total shutdown of production;
- refusing or delaying requests for 510(k) marketing clearance or PMA approvals of new products or modified products;
- withdrawing 510(k) clearances or PMA approvals that have already been granted;
- refusal to grant export approvals for our products; or
- criminal prosecution.

Coverage and Reimbursement

In the United States, our currently approved products are commonly treated as general supplies utilized in orthopaedic surgery and if covered by third-party payors, are paid for as part of the surgical procedure. Outside of the United States, there are many reimbursement programs through private payors as well as government programs. In some countries, government reimbursement is the predominant program available to patients and hospitals. Our commercial success depends in part on the extent to which governmental authorities, private health insurers and other third-party payors provide coverage for and establish adequate reimbursement levels for the procedures during which our products are used. Failure by physicians, hospitals, ambulatory surgery centers and other users of our products to obtain sufficient coverage and reimbursement from third-party payors for procedures in which our products are used, or adverse changes in government and private third-party payors' coverage and reimbursement policies could materially adversely affect our business, financial condition, results of operations and prospects.

Based on our experience to date, third-party payors generally reimburse for the surgical procedures in which our products are used only if the patient meets the established medical necessity criteria for surgery. Some payors are moving toward a managed care system and control their health care costs by limiting authorizations for surgical procedures, including elective procedures using our devices. Although no uniform policy of coverage and reimbursement among payors in the United States exists and coverage and reimbursement for procedures can differ significantly from payor to payor, reimbursement decisions by particular third-party payors may depend upon a number of factors, including the payor's determination that use of a product is:

- a covered benefit under its health plan;
- appropriate and medically necessary for the specific indication;
- cost effective; and
- neither experimental nor investigational.

Third-party payors are increasingly auditing and challenging the prices charged for medical products and services with concern for upcoding, miscoding, using inappropriate modifiers, or billing for inappropriate care settings. Some third-party payors must approve coverage for new or innovative devices or procedures before they will reimburse health care providers who use the products or therapies. Even though a new product may have been cleared for commercial distribution by the FDA, we may find limited demand for the product unless and until reimbursement approval has been obtained from governmental and private third-party payors.

A key component in ensuring whether the appropriate payment amount is received for physician and other services, including those procedures using our products, is the existence of a Current Procedural Terminology (CPT), code, to describe the procedure in which the product is used. To receive payment, health care practitioners must submit claims to insurers using these codes for payment for medical services. CPT codes are assigned, maintained and annually updated by the American Medical Association and its CPT Editorial Board. If the CPT codes that apply to the procedures performed using our products are changed or deleted, reimbursement for performances of these procedures may be adversely affected.

In the United States, some insured individuals enroll in managed care programs, which monitor and often require pre-approval of the services that a member will receive. Some managed care programs pay their providers on a per capita (patient) basis, which puts the providers at financial risk for the services provided to their patients by paying these providers a predetermined payment per member per month and, consequently, may limit the willingness of these providers to use our products.

We believe the overall escalating cost of medical products and services being paid for by the government and private health insurance has led to, and will continue to lead to, increased pressures on the health care and medical device industry to reduce the costs of products and services. All third-party reimbursement programs are developing increasingly sophisticated methods of controlling health care costs through prospective reimbursement and capitation programs, group purchasing, redesign of benefits, requiring second opinions before major surgery, careful review of bills, encouragement of healthier lifestyles and other preventative services and exploration of more cost-effective methods of delivering health care.

In addition to uncertainties surrounding coverage policies, there are periodic changes to reimbursement levels. Third-party payors regularly update reimbursement amounts and also from time to time revise the methodologies used to determine reimbursement amounts. This includes routine updates to payments to physicians, hospitals and ambulatory surgery centers for procedures during which our products are used. These updates could directly impact the demand for our products.

Health Care Reform

The United States and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the health care system in ways that could affect our ability to sell our products profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in health care systems with the stated goals of containing health care costs, improving quality or expanding access. Current and future legislative proposals to further reform health care or reduce health care costs may limit coverage of or lower reimbursement for the procedures associated with the use of our products. The cost containment measures that payors and providers are instituting and the effect of any health care reform initiative implemented in the future could impact our revenue from the sale of our products.

In the United States, the implementation of the ACA for example, has changed health care financing and delivery by both governmental and private insurers substantially, and affected medical device manufacturers significantly. The ACA, among other things, provided incentives to programs that increase the federal government’s comparative effectiveness research, and implemented payment system reforms including a national pilot program on payment bundling to encourage hospitals, physicians and other providers to improve the coordination, quality and efficiency of certain health care services through bundled payment models. Additionally, the ACA expanded eligibility criteria for Medicaid programs and created a new Patient-Centered Outcomes Research Institute to oversee, identify priorities in, and conduct comparative clinical effectiveness research, along with funding for such research.

Since its enactment, there have been judicial and Congressional challenges to certain aspects of the ACA. By way of example, in 2017, the Tax Cuts and Jobs Act was signed into law, which eliminated the tax-based shared responsibility payment imposed by the ACA on certain individuals who fail to maintain qualifying health

coverage for all or part of a year that is commonly referred to as the "individual mandate." On December 14, 2018, a U.S. District Court Judge in the Northern District of Texas ruled that the individual mandate is a critical and inseverable feature of the ACA, and therefore, because it was repealed as part of the Tax Cuts and Jobs Act, the remaining provisions of the ACA are invalid as well. On December 18, 2019, the U.S. Court of Appeals for the Fifth Circuit ruled that the individual mandate was unconstitutional and remanded the case back to the District Court to determine whether the remaining provisions of the ACA are invalid as well. The U.S. Supreme Court is currently reviewing the case, although it is unclear how the Supreme Court will rule. Although the U.S. Supreme Court has not yet ruled on the constitutionality of the ACA, on January 28, 2021, President Biden issued an executive order to initiate a special enrollment period from February 15, 2021 through May 15, 2021 for purposes of obtaining health insurance coverage through the ACA marketplace. The executive order also instructs certain governmental agencies to review and reconsider their existing policies and rules that limit access to health care, including among others, reexamining Medicaid demonstration projects and waiver programs that include work requirements, and policies that create unnecessary barriers to obtaining access to health insurance coverage through Medicaid or the ACA. It is unclear how the U.S. Supreme Court ruling, other such litigation, and the health care reform measures of the Biden administration will impact the ACA.

In addition, other legislative changes have been proposed and adopted since the ACA was enacted. For example, the Budget Control Act of 2011, among other things, reduced Medicare payments to providers by 2% per fiscal year, effective on April 1, 2013 and, due to subsequent legislative amendments to the statute, will remain in effect through 2030, with the exception of a temporary suspension from May 1, 2020 through March 31, 2021, unless additional Congressional action is taken. Additionally, the American Taxpayer Relief Act of 2012, among other things, reduced Medicare payments to several providers, including hospitals, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. The Medicare Access and CHIP Reauthorization Act of 2015 repealed the formula by which Medicare made annual payment adjustments to physicians and replaced the former formula with fixed annual updates and a new system of incentive payments that are based on various performance measures and physicians' participation in alternative payment models, such as accountable care organizations.

We expect additional state and federal health care reform measures to be adopted in the future, particularly in light of the new presidential administration, some of which could limit the amounts that federal and state governments will pay for health care products and services, which could result in reduced demand for our products or additional pricing pressure.

Federal, State and Foreign Fraud and Abuse and Physician Payment Transparency Laws

In addition to FDA restrictions on marketing and promotion of drugs and devices, other federal and state laws restrict our business practices. These laws include, without limitation, foreign, federal, and state anti-kickback and false claims laws, as well as transparency laws regarding payments or other items of value provided to health care providers.

The federal Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind to induce or in return for purchasing, leasing, ordering or arranging for or recommending the purchase, lease or order of any good, facility, item or service reimbursable, in whole or in part, under Medicare, Medicaid or other federal health care programs. Although there are a number of statutory exceptions and regulatory safe harbors protecting some common activities from prosecution, the exceptions and safe harbors are drawn narrowly. Failure to meet all of the requirements of a particular applicable statutory exception or regulatory safe harbor does not make the conduct per se illegal under the federal Anti-Kickback Statute. Instead, the legality of the arrangement will be evaluated on a case-by-case basis based on a cumulative review of all its facts and circumstances. Several courts have interpreted the statute's intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal health care covered business, the federal Anti-Kickback Statute has been violated. In addition, a person or entity does not

need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. The majority of states also have anti-kickback laws which establish similar prohibitions and in some cases may apply more broadly to items or services covered by any third-party payor, including commercial insurers and self-pay patients.

The federal civil False Claims Act prohibits, among other things, any person or entity from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval to the federal government or knowingly making, using or causing to be made or used a false record or statement material to a false or fraudulent claim to the federal government. 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. In addition, a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the federal civil False Claims Act. Private parties may initiate "qui tam" whistleblower lawsuits against any person or entity under the federal civil False Claims Act in the name of the government and share in the proceeds of the lawsuit.

HIPAA also created additional federal criminal statutes that prohibit among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any health care benefit program, including private third-party payors, knowingly and willfully embezzling or stealing from a health care benefit program, willfully obstructing a criminal investigation of a health care offense, and knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of or payment for health care benefits, items or services. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. Also, many states have similar fraud and abuse statutes or regulations that apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor.

Additionally, there has been a recent trend of increased foreign, federal, and state regulation of payments and transfers of value provided to health care professionals or entities. The federal Physician Payments Sunshine Act imposes annual reporting requirements on certain drug, biologics, medical supplies and device manufacturers for which payment is available under Medicare, Medicaid or CHIP for payments and other transfers of value provided by them, directly or indirectly, to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain other health care providers beginning in 2022, and teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members. Beginning in 2022, such obligations will include payments and other transfers of value provided in the previous year to physician assistants, nurse practitioners, clinical nurse specialists, certified nurse anesthetists, anesthesiologist assistants and certified nurse midwives. Certain foreign countries and U.S. states also mandate implementation of commercial compliance programs, impose restrictions on device manufacturer marketing practices and require tracking and reporting of gifts, compensation and other remuneration to health care professionals and entities.

Penalties for violation of any of the health care laws described above or any other governmental regulations that apply to us include, without limitation, civil, criminal and/or administrative penalties, damages, fines, disgorgement, imprisonment, exclusion from participation in government programs, such as Medicare and Medicaid, injunctions, refusal to allow us to enter into government contracts, contractual damages, reputational harm, administrative burdens, diminished profits and future earnings, and the curtailment or restructuring of an entity's operations.

Employees and Human Capital Resources

As of December 31, 2020, we had 133 full-time employees. We believe that the success of our business will depend, in part, on our ability to attract and retain qualified personnel. None of our employees are represented by a labor union or are a party to a collective bargaining agreement and we believe that our employee relations are good.

Our human capital resources objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our existing and additional employees. The principal purposes of our equity incentive plans are to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards and cash-based performance bonus awards.

Facilities

We currently lease approximately 23,060 square feet for our corporate headquarters located in Ponte Vedra, Florida under a lease agreement which terminates in March 2026. We believe that this facility is sufficient to meet our current and anticipated needs in the near term and that additional space can be obtained on commercially reasonable terms as needed.

Legal Proceedings

We are not currently a party to any material legal proceedings. We may, however, in the ordinary course of business face various claims brought by third parties and we may, from time to time, make claims or take legal actions to assert our rights, including intellectual property rights as well as claims relating to employment matters and the safety or efficacy of our products. Any of these claims could subject us to costly litigation and, while we generally believe that we have adequate insurance to cover many different types of liabilities, our insurance carriers may deny coverage, may be inadequately capitalized to pay on valid claims, or our policy limits may be inadequate to fully satisfy any damage awards or settlements. If this were to happen, the payment of any such awards could have a material adverse effect on our operations, cash flows and financial position. Additionally, any such claims, whether or not successful, could damage our reputation and business.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information, as of March 30, 2021, regarding our executive officers and directors.

Name	Age	Title
Executive Officers and Employee Director		
John T. Treace	49	Chief Executive Officer, Founder and Director
Mark L. Hair	51	Chief Financial Officer
Joe W. Ferguson	52	Senior Vice President, Research & Development
Jaime A. Frias	59	Chief Legal & Compliance Officer, Secretary
Daniel E. Owens	49	Chief Human Resources Officer
Dipak A. Rajhansa	51	Senior Vice President, Sales
Sean F. Scanlan	39	Senior Vice President, Marketing & Medical Education
Non-Employee Directors		
James T. Treace (3)	75	Chairman and Director
John K. Bakewell (1)(3)	59	Director
F. Barry Bays (2)	74	Director
Lawrence W. Hamilton (1)(2)	63	Director
Richard W. Mott (3)	62	Director
Thomas E. Timbie (1)(2)	63	Director
John R. Treace	76	Director

(1) Member of the audit committee.
(2) Member of the compensation committee.
(3) Member of the nominating, compliance and governance committee.

Executive Officers and Employee Director

John T. Treace founded Treace Medical Concepts in 2014 and has served as our Chief Executive Officer and a member of our board of directors since our inception. Before that, Mr. Treace served as Senior Vice President of U.S. Sales and Global Marketing from January 2010 to January 2013, as Vice President, Biologics and Extremities, from January 2003 to December 2009, Senior Director of Biologics Marketing from July 2001 to June 2003 and as Senior Directors of Sales Administration from November 2000 to June 2001 for Wright Medical Group, Inc., a medical device company, which was acquired by Stryker Corporation (NYSE: SYK) in November 2020. Before that, Mr. Treace held positions Xomed Surgical Products, Inc., including as Director of Marketing from June 1998 to September 2000 and as Senior Product Manager from April 1996 to June 1998. From July 2010 to July 2013, Mr. Treace served on the board of directors of ENTrigue Surgical, which was acquired by Arthrocare Corporation. Mr. Treace holds a BS in Finance from Seattle University. We believe Mr. Treace is qualified to serve on our board due to his extensive knowledge as our company's founder and Chief Executive Officer, his prior commercial and general management experience with a market-leading, publicly-traded foot and ankle medical device company and his prior experience as a board member for ENTrigue Surgical.

Mark L. Hair has served as our Chief Financial Officer since September 2020. Before that, from January 2018 to February 2020, Mr. Hair served as the Chief Financial Officer of Restoration Robotics, Inc., a medical device company. From May 2016 to August 2017, Mr. Hair served as the Vice President and Chief Accounting Officer of Zeltiq Aesthetics, Inc., a medical device company, including through its acquisition by Allergan plc in

April 2017. Prior to that, from September 2014 to January 2016, Mr. Hair served as the Vice President and Corporate Controller of Thoratec Corporation, a medical device company, including through its acquisition by St. Jude Medical in October 2015. Mr. Hair has also served as Senior Vice President, Finance and Corporate Controller at Diamond Foods, Inc., and also held positions at StoneTurn Group, LLP, and Deloitte, LLP. Mr. Hair holds a BS in Accounting and a Masters of Accountancy from Brigham Young University.

Joe W. Ferguson has served as our Senior Vice President, Research & Development since March 2021 and before that as our Chief Operating Officer since July 2014. Before that, from January 2011 to July 2014, Mr. Ferguson served in various senior management roles at IMDS, a medical device and instrument product development contractor, most recently as General Manager of the Florida Co-Innovation Group, including during its acquisition by Coors-Tek Medical in October 2013. Before that, from September 2007 to January 2011, Mr. Ferguson served as Senior Management of Development – Foot and Ankle at Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020. Mr. Ferguson has also served at Medtronic plc (NYSE: MDT), Spinal Dynamics and DePuy Orthopaedics, now part of Johnson & Johnson (NYSE: JNJ). Mr. Ferguson holds a BS in Microbiology from Auburn University and an MS in Biomedical Engineering from the University of Memphis.

Jaime A. Frias has served as our Chief Legal & Compliance Officer since March 2021 and before that as our Executive Vice President, General Counsel and Chief Compliance Officer since July 2017. Mr. Frias has also served as our Secretary since June 2017. Before that, from November 2013 to June 2017, Mr. Frias served as the managing partner of Frias Legal PA, where he provided us with legal services starting in 2014. Before that, from November 1999 to October 2013, Mr. Frias served in various roles at Medtronic plc (NYSE: MDT), most recently as the Vice President, Chief Legal Counsel for the Surgical Technologies division. Before that, from October 1998 until its acquisition of Medtronic plc in November 1999, Mr. Frias served as in-house counsel for Xomed Surgical Products, Inc. Mr. Frias holds a Bachelor of Music from the University of Florida and a JD from the University of Michigan Law School.

Daniel E. Owens has served as our Chief Human Resources Officer since February 2021. Before that, from February 2019 to May 2020, Mr. Owens served as Vice President of Human Resources at Jackson Hewitt Tax Service Inc. From August 2012 to February 2019, Mr. Owens served in various human resources roles at HSN, Inc., a direct to consumer retail business, which was acquired by Qurate Retail, Inc. (NASDAQ: QRTEA, QRTEB, QRTEP) in December 2017, most recently as Vice President of People Lead. Mr. Owens has also served in human resources roles at Nomura Securities (NYSE: NMR), Hartford Life Insurance (NYSE: HIG) and General Electric (NYSE: GE). Mr. Owens holds a BA in Economics from Michigan State University.

Dipak A. Rajhansa has served as our Senior Vice President, Sales since March 2021 and before that as our Chief Sales Officer since July 2017. Before that, from September 2012 to July 2017, Mr. Rajhansa served as Senior Vice President of Sales and Marketing for Skeletal Dynamics, LLC, a medical device company. Mr. Rajhansa has also served at ImaCor from April 2008 to August 2012, Magellan Consulting Group from July 2006 to April 2008 and Hand Innovations from May 2002 to April 2006 when the company was acquired by Johnson & Johnson (NYSE: JNJ). Mr. Rajhansa holds a BA in Political Science from Washington University and an MBA from New York University.

Sean F. Scanlan, Ph.D. has served as our Senior Vice President, Market & Medical Education since March 2021 and before that as our Vice President, Marketing & Medical Education since January 2018, after serving in various marketing roles of increasing responsibility since December 2014. Before that, from June 2011 to April 2014, Dr. Scanlan served as Product Development Engineer Advanced Surgical Devices at Smith & Nephew (NYSE: SNN), focusing on product development and early-stage technology assessment. Before that, from January 2006 to May 2011, Dr. Scanlan led an interdisciplinary clinical research study at Stanford University, focusing on orthopaedic surgery and engineering and, from October 2009 to May 2011, served as a consultant for Moximed Inc., an early-stage orthopaedics start-up company. Mr. Scanlan holds a BS in Engineering Science (Biomechanics) from University of Florida and an MS and PhD in Mechanical Engineering (Biomechanical Engineering division) from Stanford University.

Non-Employee Directors

James T. Treace has served as the chairman of our board of directors since June 2014. Mr. Treace has served as the Founder and President of J&A Group, LLC, a privately funded medical device investment and consulting company, since October 2000. Before that, from November 1999 to October 2000, Mr. Treace served as President of Medtronic Xomed, a subsidiary of Medtronic plc (NYSE: MDT). Prior to that, from April 1996 to November 1999, Mr. Treace served as Chief Executive Officer, President and Chairman of the board of directors Xomed Surgical Products, Inc. (NASDAQ: XOMD), until it was acquired by Medtronic plc. Before that, from July 1993 to April 1996, Mr. Treace co-founded and served as the Chief Executive Officer and Chairman of the Board at TreBay Medical Corp., an orthopaedic and microsurgical device company. From September 1981 to July 1990 he served as President and Chief Executive Officer of Concept, Inc. (NASDAQ: CCPT), now known as Conmed Linvatec (NYSE: CNMD) and from June 1966 to September 1981 as Executive Vice President of Richards Medical, now known as Smith & Nephew (NYSE: SNN). Mr. Treace previously served as Chairman of the Boards of Kyphon, Inc. (NASDAQ: KYPH), now part of Medtronic plc, Wright Medical Group, Inc. which was acquired by Stryker Corporation (NYSE: SYK) in November 2020 and American Medical Systems, Inc. (NASDAQ: AMMD, now part of Endo Pharmaceuticals (NASDAQ: ENDP). We believe that James T. Treace is qualified to serve on our board due to his experience as chief executive officer and chairman of the board of publicly-traded and privately-held medical device companies.

John K. Bakewell has served as a member of our board of directors since November 2020. Before that, from January 2016 to November 2016, Mr. Bakewell served as the Chief Financial Officer of Exact Sciences Corporation (NASDAQ: EXAS), a molecular diagnostics company. Before that, from June 2014 to December 2015, he served as Chief Financial Officer of Lantheus Holdings, Inc. (NASDAQ: LNTH), a diagnostic medical imaging company. Mr. Bakewell has also previously served at Interline Brands, Inc., RegionalCare Hospital Partners, Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020, Cyberonics, Inc., now part of LivaNova PLC (NASDAQ:LIVN), Altra Energy Technologies, Inc. and ZEOS International, Ltd. Mr. Bakewell has served as a member of the board of directors of Neuronetics, Inc. (NASDAQ: STIM), a medical technology company, since May 2020, and Xtant Medical Holdings, Inc. (NYSE MKT: XTNT), a medical device company, since February 2018. Mr. Bakewell also previously served as a member of the board of directors of Entellus Medical, Inc., now part of Stryker Corporation (NYSE: SYK), ev3 Inc., now part of Medtronic plc (NYSE: MDT) and Corindus Vascular Robotics, Inc., now a Siemens Healthineers company. Mr. Bakewell holds a BA in Accounting from the University of Northern Iowa and is a certified public accountant (current status inactive). We believe that Mr. Bakewell is qualified to serve on our board due to his extensive financial and managerial experience as a senior executive of several publicly traded medical technology companies, as well as his experience serving on the board of directors of other companies.

F. Barry Bays has served as a member of our board of directors since June 2014. From January 2000 to June 2008, he served in various senior leadership roles with Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020, including as Executive Chairman from June 2004 to October 2005, and again from April 2006 to June 2008 and as President and Chief Executive Officer from January 2000 to June 2004, and again from October 2005 to April 2006. Before that, from 1996 to 2000 Mr. Bays served as the Chief Operating Officer of Xomed Surgical Products, Inc., which was acquired by Medtronic plc (NYSE: MDT) in 1999. Mr. Bays has also served in leadership roles at TreBay Medical Corp., Concept, Inc., now known as Conmed Linvatec (NYSE: CNMD), and Richards Medical, now known as Smith & Nephew (NYSE: SNN). Mr. Bays holds a BS in Mechanical Engineering from Christian Brothers University. We believe that Mr. Bays is qualified to serve on our board due to his experience at leading publicly-traded and privately-held medical device companies, including as a chief executive officer.

Lawrence W. Hamilton has served as a member of our board of directors since November 2020. Mr. Hamilton has served as an Executive Coach and Adjunct Faculty with the Center for Creative Leadership at Eckerd College since September 2008. Before that, from July 1993 to July 2006, Mr. Hamilton served in various roles at Tech Data Corporation, most recently as Senior Vice President, Human Resources. Before that, from

1991 to 1993, Mr. Hamilton served as Vice President of Human Resources and Administration at Linvatec. Before that, from 1985 to 1991, Mr. Hamilton served in a variety of human resource management positions at Bristol-Myers Squibb Company (NYSE: BMY). Mr. Hamilton has also previously served as a member of the board of directors of Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020, and HomeBanc Mortgage (NYSE: HBMC). Mr. Hamilton holds a BA in Political Sciences from Fisk University, an MPA (Labor) Policy from the University of Alabama and an Ed.S. in Human Resources Development from George Washington University. Mr. Hamilton is a certified Senior Professional in Human Resources and holds the Certified Compensation Professional designation from the American Compensation Association. We believe that Mr. Hamilton is qualified to serve on our board due to his experience in managing employees, establishing compensation policies and guidelines and serving in board committee roles.

Richard W. Mott has served as a member of our board of directors since March 2015. Mr. Mott has served as the Chairman and Interim CEO of Endologix, LLC, a medical device company, since October 2020. Additionally, Mr. Mott has served as the Principal of Walkabout Consulting LLC, a management consulting and private equity firm, since January 2009 and as a Director and Owner of VFD Technologies, a private equity firm that invests in high performance materials and medical devices manufacturing businesses, since March 2010. Before that, from September 2002 to November 2007, Mr. Mott served as President and CEO of Kyphon Inc., global medical device company, including through its acquisition by Medtronic plc (NYSE: MDT). Before that, from 1993 to 2002, Mr. Mott held various management positions at Wilson Greatbatch Technologies, Inc. and Bristol-Myers Squibb Co. (NYSE: BMY). From May 2008 to December 2017, Mr. Mott served as a member of the board of directors of Silk Road Medical Inc. (NASDAQ: SILK), a medical device company. Mr. Mott currently serves on the board of various private companies, including Conventus Orthopaedics Inc., a developer of fracture fixation technology. He holds a BS in Ceramic Engineering from Alfred University and is a graduate of Harvard University's Advanced Management Program. We believe that Mr. Mott is qualified to serve on our board due to his extensive experience leading medical device companies from the early stages of development to liquidity events.

Thomas E. Timbie has served as a member of our board of directors since June 2014 and served as our chief financial officer from July 2014 to October 2015. Before that, from January 2005 to June 2005, Mr. Timbie served as the interim Chief Financial Officer of ev3 Inc., a medical device company, now part of Covidien plc, where he helped lead ev3 through its initial public offering. Before that, from April 1996 until December 1999, Mr. Timbie served as the Chief Financial Officer of Xomed Surgical Products, Inc., including during its initial public offering in 1996, and continuing in that role until Xomed was acquired by Medtronic plc (NYSE: MDT) in 1999. Mr. Timbie has also previously served as a member of the board of directors of Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020, ev3 Inc., until its acquisition by Covidien plc, and American Medical Systems, Inc., now part of Endo Pharmaceuticals (NASDAQ: ENDP). Mr. Timbie holds a BS in Accounting from University of Florida, an MBA from Stetson University and is a certified public accountant (current status inactive). We believe that Mr. Timbie is qualified to serve on our board due to his professional expertise as a Chief Financial Officer and audit committee chairman for several medical device companies, extensive knowledge of the medical device industry and prior experience in leading medical device companies through initial public offerings.

John R. Treace has served as a member of our board of directors since June 2014. Mr. Treace has served as the Founder and Chief Executive Officer of JR Treace & Associates, a sales and marketing consulting firm, since September 2011. Before that, Mr. Treace served in various senior management roles at Wright Medical Group, Inc., which was acquired by Stryker Corporation (NYSE: SYK) in November 2020, including as Vice President, US Sales from September 2000 to May 2004, Executive Vice President of North American Sales from October 2005 to March 2007 and as Special Assistant to the President from April 2007 through December 2007. Mr. Treace held various management positions at Medtronic Xomed, a subsidiary of Medtronic plc (NYSE: MDT), TreBay Medical Corp. and Richards Medical, now known as Smith & Nephew (NYSE: SNN). Mr. Treace holds a BS in Psychology from University of Memphis. We believe that John R. Treace is qualified to serve on our board due to his experience leading the sales and marketing functions of publicly-traded and privately-held medical device companies.

Family Relationships

Three members of our board of directors, including our Chief Executive Officer, have a family relationship. John T. Treace, our Chief Executive Officer, is the son of our director John R. Treace and the nephew of our director James T. Treace. There are no family relationships among any of our executive officers. Each of our executive officers serves at the discretion of our board of directors and holds office until his or her successor is duly elected and qualified or until his or her earlier resignation or removal.

Board Composition

Director Independence

Our board of directors currently consists of eight members. Pursuant to the Nasdaq Global Market listing requirements, independent directors must comprise a majority of a listed company's board of directors within a specified period of time after listing on the Nasdaq Stock Market. The Nasdaq Global Market's independence definition includes a series of objective tests, such as that the director is not, and has not been for at least three years, one of our employees and that neither the director nor any of his or her family members has engaged in various types of business dealings with us.

As required by the Nasdaq Global Market rules, our board of directors has made a subjective determination as to the independence of each director and determined that Messrs. Bakewell, Bays, Hamilton, Mott and Timbie, representing five of our eight directors, are independent directors under the rules of the Nasdaq Global Market. James T. Treace is the uncle of our Chief Executive Officer and John R. Treace is the father of our Chief Executive Officer. Our board of directors will review the independence of each director at least annually. During these reviews, the board of directors will consider transactions and relationships between each director, and his or her immediate family and affiliates, and our company and its management to determine whether any such transactions or relationships are inconsistent with a determination that the director is independent. This review will be based primarily on responses of the directors to questions in a directors' and officers' questionnaire regarding employment, business, familial, compensation and other relationships with our company including its management.

We believe that a majority of our directors and the composition of our board of directors meets the requirements for independence under the current requirements of the SEC and the Nasdaq Stock Market. As required by the Nasdaq Stock Market, we anticipate that our independent directors will meet in regularly scheduled executive sessions at which only independent directors are present. We intend to comply with future governance requirements to the extent they become applicable to us.

Classified Board of Directors

In accordance with our amended and restated certificate of incorporation to be in effect immediately before the completion of this offering, our board of directors will be divided into three classes with staggered three-year terms. At each annual meeting of stockholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election or until their earlier death, resignation or removal. Effective upon the completion of this offering, we expect that our directors will be divided among the three classes as follows:

- Our class I directors will be Lawrence W. Hamilton and John R. Treace, and their terms will expire at our annual meeting of stockholders to be held in 2022;
- Our class II directors will be Thomas E. Timbie, James T. Treace and F. Barry Bays, and their terms will expire at our annual meeting of stockholders to be held in 2023; and
- Our class III directors will be John K. Bakewell, Richard W. Mott and John T. Treace, and their terms will expire at our annual meeting of stockholders to be held in 2024.

Our amended and restated certificate of incorporation and amended and restated bylaws to be in effect immediately prior to the completion of this offering will provide that the authorized number of directors may be changed only by resolution of the board of directors. Any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. The division of our board of directors into three classes with staggered three-year terms, together with the requirement that stockholders may remove our directors only for cause with a two-thirds vote and the inability of stockholders to call special meetings, may have the effect of delaying or preventing a change in control or management.

Board Committees

Our board of directors has established a standing audit committee, a compensation committee and a nominating committee. Our board of directors may establish other committees to facilitate the management of our business. The composition and functions of each committee are described below. Members serve on these committees until their resignation or until otherwise determined by our board of directors. Each committee intends to adopt a written charter that satisfies the applicable rules and regulations of the SEC and Nasdaq Listing Rules, which we will post on our website at www.treace.com upon the completion of this offering. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and the inclusion of our website address in this prospectus is an inactive textual reference only.

Audit Committee

Effective upon the consummation of this offering, the members of our audit committee will be John K. Bakewell, Lawrence W. Hamilton, and Thomas E. Timbie, and Mr. Bakewell will serve as the chair of the audit committee. Our board of directors has determined that each member of the audit committee meet the heightened independence and experience requirements applicable to audit committee members under the applicable rules and regulations of the Nasdaq Global Market and the SEC and that Mr. Bakewell and Mr. Timbie are both an “audit committee financial expert” as defined under applicable rules of the SEC. Our board of directors has assessed whether all members of the audit committee meet the composition requirements of the Nasdaq Global Market, including the requirements regarding financial literacy and financial sophistication. Our board of directors found that each of the members of the audit committee have met the financial literacy and financial sophistication requirements under SEC and the Nasdaq Stock Market rules. The audit committee will operate under a written charter that satisfies the applicable standards of the SEC and the Nasdaq Global Market.

Our audit committee oversees our corporate accounting and financial reporting process and, as such, its primary responsibilities include:

- appointing, determining the engagement, approving the compensation of and assessing the qualifications and independence of our independent registered public accounting firm;
- monitoring the rotation of partners of the independent registered public accounting firm on our engagement team in accordance with requirements established by the SEC;
- reviewing and discussing with management and our independent registered public accounting firm our annual and quarterly financial statements and related disclosures;
- preapproving the audit and non-audit fees due to and services to be performed by our independent registered public accounting firm;
- reviewing our financial statements and our management’s discussion and analysis of financial condition and results of operations to be included in our annual and quarterly reports to be filed with the SEC;
- monitoring annually our internal control over financial reporting, disclosure controls and procedures and treasury functions including cash management procedure;

- reviewing and approving all related party transactions on an ongoing basis;
- establishing procedures for the receipt, retention and treatment of complaints received by us regarding accounting internal account controls or auditing matters;
- reviewing our policies with respect to risk assessment and risk management;
- consulting with management to establish procedures and internal controls relating to information technology management, information systems and cybersecurity;
- establishing policies regarding hiring employees from our independent registered public accounting firm and procedures for the receipt and retention of accounting related complaints and concerns;
- meeting independently with our independent registered public accounting firm and management;
- investigating any reports received through the ethics helpline and reports to the board of directors periodically with respect to accounting, internal accounting controls or auditing matters;
- monitoring compliance with the code of business conduct and ethics with respect to accounting, internal accounting controls or auditing matters and establishing procedures for the confidential and anonymous submission of complaints regarding questionable accounting or auditing matters; and
- reviewing the audit committee charter and the audit committee's performance on an annual basis.

Compensation Committee

Effective upon the consummation of this offering, the members of our compensation committee will be Lawrence W. Hamilton, F. Barry Bays and Thomas E. Timbie, and Mr. Hamilton will serve as chair of the compensation committee. Each of the members of our compensation committee will be independent under the applicable rules and regulations of the Nasdaq Global Market, will be a "non-employee director" as defined in Rule 16b-3 promulgated under the Exchange Act and will be an "outside director" as that term is defined in Section 162(m) of the Code (Section 162(m)). The compensation committee will operate under a written charter that satisfies the applicable standards of the SEC and the Nasdaq Global Market.

The compensation committee's responsibilities include:

- annually reviewing and approving corporate goals and objectives relevant to compensation of our chief executive officer and our other executive officers;
- annually reviewing and making recommendations to our board of directors with respect to the compensation of our chief executive officer and determining the compensation for our other executive officers;
- reviewing and making recommendations to our board of directors with respect to director compensation; and
- overseeing and administering our equity incentive plans.

From time to time, our compensation committee may use outside compensation consultants to assist it in analyzing our compensation programs and in determining appropriate levels of compensation and benefits. For example, in the fourth quarter of 2020, we engaged Compensia, Inc., a compensation consulting firm to compensation committees, to advise us on compensation philosophy as we transition towards becoming a publicly-traded company, selection of a group of peer companies to use for compensation benchmarking purposes and cash and equity compensation levels for our directors, executives and other employees based on current market practices. The compensation committee will review and evaluate, at least annually, the performance of the compensation committee and its members, including compliance by the compensation committee with its charter.

Nominating, Compliance and Governance Committee

Effective upon the consummation of this offering, the members of our nominating, compliance and governance committee will be Richard W. Mott, John K. Bakewell, and James T. Treace, and Mr. Mott will serve as the chair of this committee. Messrs. Mott and Bakewell meet the independence requirements of under the applicable rules and regulations of the Nasdaq Global Market relating to nominating, compliance and governance committee independence. The nominating, compliance and governance committee will operate under a written charter that satisfies the applicable standards of the SEC and the Nasdaq Global Market.

The nominating, compliance and governance committee's responsibilities include:

- identifying individuals qualified to become board members and recommending directors;
- nominating board members for committee membership;
- monitoring compliance with the code of business conduct and ethics;
- overseeing our policies and programs related to compliance with laws and regulations;
- reviewing hotline reports and compliance investigations (other than reports related to accounting, internal accounting controls, fraud or auditing matters), "whistleblower" reporting and non-retaliation policies;
- receiving information about current and emerging risks and regulatory and enforcement trends, governing inquiries or third-party claims;
- developing and recommending to our board corporate governance guidelines; and
- overseeing the evaluation of our board of directors and its committees and management.

Role of the Board in Risk Oversight

While our board of directors does not have a standing risk management committee, our audit committee is responsible for overseeing our risk management and risk assessment processes on behalf of the board of directors and our nominating, compliance and governance committee is responsible for overseeing compliance programs related to legal and regulatory risks. Going forward, we expect that the audit committee will receive reports from management on at least a quarterly basis regarding our assessment of risks and risk management policies, including investment policies, insurance programs and cybersecurity. We expect the nominating, compliance and governance committee will receive periodic reports from management about current and emerging risks and regulatory and enforcement trends, governmental inquiries or third-party claims. In addition, the audit committee and nominating, compliance and governance committee both report regularly to the board of directors, which also considers our risk profile. Our audit committee, nominating, compliance and governance committee and board focus on the most significant risks we face and our general risk management strategies. While the board of directors oversees our risk management, management is responsible for day-to-day risk management processes. Our board of directors expects management to consider risk and risk management in each business decision, to proactively develop and monitor risk management strategies and processes for day-to-day activities and to effectively implement risk management strategies adopted by the audit committee, nominating, compliance and governance and the board of directors. We believe this division of responsibilities is the most effective approach for addressing the risks we face and that our board of directors' leadership structure, which also emphasizes the independence of the board of directors in its oversight of its business and affairs, supports this approach.

Code of Business Conduct and Ethics

Our board of directors has adopted a written code of business conduct and ethics that applies to all of our employees, officers and directors, including those officers responsible for financial reporting. Following the completion of this offering, our code of business conduct and ethics will be available on our website at

www.treace.com. We intend to disclose any amendments to the code, or any waivers of its requirements, on our website to the extent required by the applicable rules and exchange requirements. The reference to our website address in this prospectus does not incorporate by reference into this prospectus the information on or accessible through our website, and you should not consider it to be a part of this prospectus. The inclusion of our website address in this prospectus is an inactive textual reference only.

Limitation on Liability and Indemnification Matters

Our amended and restated certificate of incorporation and our amended and restated bylaws, both of which will become effective immediately prior to the completion of this offering will contain provisions that limit the liability of our directors for monetary damages to the fullest extent permitted by Delaware General Corporation Law (DGCL). The DGCL provides that directors of a corporation will not be personally liable to us or our stockholders for monetary damages for any breach of fiduciary duties as directors, except liability for any:

- transaction from which the director derives an improper personal benefit;
- act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- unlawful payment of dividends or redemption of shares; or
- breach of a director's duty of loyalty to the corporation or its stockholders.

These limitations of liability do not apply to liabilities arising under federal securities laws and do not affect the availability of equitable remedies such as injunctive relief or recession.

Our amended and restated certificate of incorporation and amended and restated bylaws requires us to indemnify our directors and officers, in each case to the fullest extent permitted by DGCL. Our amended and restated bylaws also provide that we are obligated to advance expenses (including attorney's fees and disbursements) incurred by any indemnified person in advance of the final disposition of any action or proceeding, and permits us to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under Delaware law.

We have entered, and expect to continue to enter, into separate agreements to indemnify our directors, executive officers and other employees as determined by our board of directors. With specified exceptions, these agreements provide for indemnification for related expenses including, among other things, attorneys' fees, judgments, fines and settlement amounts incurred by any of these individuals in any action or proceeding. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons under the foregoing provisions, or otherwise, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. We believe that these bylaw provisions and indemnification agreements are necessary to attract and retain qualified persons as directors and officers. We also maintain directors' and officers' liability insurance pursuant to which our directors and officers are insured against liability for actions taken in their capacities as directors and officers.

We believe that these provisions in our amended and restated certificate of incorporation and amended and restated bylaws and these indemnification agreements are necessary to attract and retain qualified persons as directors and officers. However, the limitation of liability and indemnification provisions in our amended and restated certificate of incorporation and amended and restated bylaws may discourage stockholders from bringing a lawsuit against our directors and officers for breach of their fiduciary duty. They may also reduce the likelihood of derivative litigation against our directors and officers, even though an action, if successful, might benefit us and our stockholders. Further, a stockholder's investment may be adversely affected to the extent that we pay the costs of settlement and damages.

There is no pending litigation or proceeding naming any of our directors or officers as to which indemnification is being sought, nor are we aware of any pending or threatened litigation that may result in claims for indemnification by any director or officer.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serve as a member of the board of directors (other than John T. Treace, our Chief Executive Officer) or as a member of the compensation committee, or other committee serving an equivalent function, of any other entity that has one or more of its executive officers serving as a member of our board of directors or its compensation committee. None of the current members of the compensation committee of our board of directors has been one of our employees within the past five years.

Board Diversity

Upon consummation of this offering, our nominating, compliance and governance committee will be responsible for reviewing with our board of directors, on an annual basis, the appropriate characteristics, skills and experience required for our board of directors as a whole and its individual members. In evaluating the suitability of individual candidates (both new candidates and current members), the nominating, compliance and governance committee, in recommending candidates for election, and our board of directors, in approving (and, in the case of vacancies, appointing) such candidates, may take into account many factors, including but not limited to the following:

- personal and professional integrity;
- ethics and values;
- experience in corporate management, such as serving as an officer or former officer of a publicly held company;
- experience in the industries in which we compete;
- experience as a board member or executive officer of another publicly held company;
- diversity of expertise and experience in substantive matters pertaining to our business relative to other board members;
- conflicts of interest; and
- practical and mature business judgment.

Currently, our board of directors evaluates, and following the consummation of this offering will evaluate, each individual in the context of our board of directors as a whole, with the objective of assembling a group that can best maximize the success of the business and represent stockholder interests through the exercise of sound judgment using its diversity of experience in these various areas.

Director Compensation

Before November 2020, non-employee members of our board of directors did not receive any cash compensation for service on our board of directors or committees, including attending board and committee meetings. However, we did reimburse our non-employee directors for travel, lodging and other reasonable expenses incurred in attending board, committee and other company related meetings. In November 2020, Messrs. Bakewell and Hamilton joined the board. In appointing Messrs. Bakewell and Hamilton and preparing for this offering, the board adopted the director compensation policies described below and began paying these fees to Messrs. Bakewell and Hamilton. Pursuant to their respective offer letters, Messrs. Bakewell and Hamilton are entitled to annual cash compensation consisting of $40,000, as well as additional retainers for service as a Chairperson or member of one or more committees of the board. The additional annual retainers for committee

service are as follows: (i) audit committee (Chair: $20,000; member: $10,000); (ii) compensation committee (Chair: $15,000; member: $7,000) and (iii) nominating, compliance and governance committee (Chair: $10,000; member: $5,000). All annual retainers are paid on a quarterly basis (in arrears) and pro-rated for partial year service. Since they did not start until November 2020, no cash compensation was paid to Messrs. Bakewell and Hamilton in 2020. In connection with their initial appointment to the board in November 2020, we granted each of Messrs. Bakewell and Hamilton an option to purchase 85,366 shares of our common stock. Each option will vest with respect to 1/36th of the shares subject to the option on each monthly anniversary of November 17, 2020 and will fully vest if the company experiences a merger or change in control, subject to the applicable holder's continued service through the vesting date.

The following table sets forth information for 2020 regarding the compensation awarded to, earned by or paid to our non-employee directors. Directors who are also our employees receive no additional compensation for their service as directors. During 2020, John T. Treace, who is one of our directors, was also an employee of our company. See "Executive Compensation—Summary Compensation Table" for additional information about the compensation for Mr. John T. Treace for his service as an employee.

Name	Fees Earned or Paid in Cash ($)	Option Awards ($)(1)	Total ($)
John K. Bakewell	—	175,000	175,000
F. Barry Bays	—	—	—
Lawrence W. Hamilton	—	175,000	175,000
Richard W. Mott	—	—	—
Thomas E. Timbie	—	—	—
James T. Treace	—	—	—
John R. Treace	—	—	—

(1) Amounts shown represents the grant date fair value of options granted during fiscal year 2020 as calculated in accordance with ASC Topic 718. See Note 2 of the financial statements included elsewhere in this prospectus for the assumptions used in calculating this amount. These amounts do not correspond to the actual value that may be recognized by the director upon exercise of the applicable awards or sale of the underlying shares of stock. As of December 31, 2020, Messrs. Bakewell and Hamilton each held options to purchase 85,366 shares of our common stock, and none of the other non-employee directors hold any options.

Outside Director Compensation Policy

After the completion of this offering, all of our non-employee director will be eligible to receive compensation for his or her service consisting of annual cash retainers and equity awards pursuant to our director compensation program. Our board of directors will have the discretion to revise non-employee director compensation as it deems necessary or appropriate.

Cash Compensation.

All non-employee directors will be entitled to receive the following cash compensation for their services following the completion of this offering:

- $40,000 per year for services as a board member;
- $35,000 per year additionally for service as chairman of the board of directors;
- $20,000 per year additionally for service as chairman of the audit committee;
- $10,000 per year additionally for service as an audit committee member;
- $15,000 per year additionally for service as chairman of the compensation committee;
- $7,000 per year additionally for service as a compensation committee member;

- $10,000 per year additionally for service as chairman of the nominating, compliance and governance committee; and
- $5,000 per year additionally for service as a nominating, compliance and governance committee member.

Each annual cash retainer and additional annual fee will be paid quarterly in arrears on a prorated basis.

Equity Compensation.

Non-employee directors will be entitled to receive all types of awards (except incentive stock options) under the 2021 Plan (or the applicable equity plan in place at the time of grant), including discretionary awards not covered under the outside director compensation policy. Following the completion of this offering, nondiscretionary, automatic grants of stock options will be made to our non-employee directors as follows:

- Initial option grant. Each person who first becomes a non-employee director after the completion of this offering will be granted an award of stock options with a value of $175,000.
- Annual option grant. Each non-employee director will be granted an award of stock options with a value of $120,000 on the date of each annual meeting of stockholders, beginning with the 2022 annual meeting.

The “value” for the options described above means the grant date fair value calculated in accordance with the Black-Scholes option valuation methodology, or such other methodology our board of directors or compensation committee may determine. The term of each option described above will be ten years from the date of grant, subject to earlier termination as provided in the 2021 Plan. The exercise price per share of each option will equal 100% of the fair market value of one share of our common stock on the date of grant.

Subject to the applicable provisions of the 2021 Plan as further described under the section titled “Equity Compensation Plans,” each (1) initial option grant will be scheduled to vest over a three year period from the date of grant with one-36th of the shares subject to such option grant vesting each month and (2) the annual option grant will be scheduled to vest over a twelve month period from the date of grant with one-12th of the shares subject to such option grant vesting each month, in each case vesting is subject to the non-employee director continuing to provide services to our company on the applicable vesting date.

EXECUTIVE COMPENSATION

This discussion contains forward looking statements that are based on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we adopt may differ materially from currently planned programs as summarized in this discussion. As an "emerging growth company" as defined in the JOBS Act, we are not required to include a Compensation Discussion and Analysis section and have elected to comply with the scaled disclosure requirements applicable to emerging growth companies.

We seek to ensure that the total compensation paid to our executive officers is reasonable and competitive. Compensation of our executives is structured around the achievement of individual performance and near-term corporate targets as well as long-term business objectives.

Our named executive officers (NEOs) for fiscal year 2020 were as follows:

- John T. Treace, our Chief Executive Officer, Director and Founder;
- Mark L. Hair, our Chief Financial Officer;
- Jaime A. Frias, our Chief Legal & Compliance Officer and Secretary; and
- Robert P. Jordheim, our former Chief Financial Officer.

Mr. Jordheim ceased to serve as our Chief Financial Officer in July 2020, but provided advisory services to us through December 2020. Following Mr. Jordheim's departure, Mr. Hair joined us as our Chief Financial Officer in September 2020.

2020 Summary Compensation Table

The following table sets forth total compensation paid to our NEOs for the fiscal year ending on December 31, 2020.

Name and Principal Position	Year	Salary ($)	Bonus ($)(1)	Option Awards ($)(2)	Non-Equity Incentive Plan Compensation ($)(3)	All Other Compensation ($)(4)	Total ($)
John T. Treace *Chief Executive Officer, Director and Founder*	2020	294,615	—	—	76,246	—	370,861
Mark L. Hair(5) *Chief Financial Officer*	2020	75,000	10,000	820,000	19,410	—	924,410
Jaime A. Frias *Chief Legal & Compliance Officer and Secretary*	2020	210,550	5,000	37,800	55,490	—	308,840
Robert P. Jordheim(6) *Former Chief Financial Officer*	2020	128,845		37,800	—	287,300	453,945

(1) Amounts reflect (i) for Mr. Frias, a one-time discretionary bonus paid to him in connection with his annual performance bonus and (ii) a signing bonus paid in September 2020 when Mr. Hair joined our company.

(2) The amounts reported represent the aggregate grant-date fair value of the stock options awarded to the NEOs in 2020, calculated in accordance with ASC Topic 718. The assumptions used in calculating the grant-date fair value of the options reported in this column are set forth in Note 10 of the financial statements included elsewhere in this prospectus.

(3) Annual cash incentive amounts for all NEOs were paid in February 2021, under our 2020 Bonus Plan, as described in the section below titled "Executive Compensation—Non-Equity Incentive Plan Compensation." The amount for Mr. Hair was pro-rated for his partial employment starting in September 2020.

(4) The amount reported for Mr. Jordheim consists of $279,823 paid by us for his cash severance plus $7,477 to cover COBRA premiums. Please see the description set forth below titled "Separation Agreement for Robert P. Jordheim" for further details on Mr. Jordheim's payments.

(5) Mr. Hair joined our company in September 2020.
(6) Mr. Jordheim left our company in July 2020, but provided advisory services to us through December 2020.

Narrative to Summary Compensation Table

2020 Salaries

Our NEOs each receive a base salary to compensate them for services rendered to our company. The base salary payable to each NEO is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role and responsibilities. For fiscal year 2020, effective as of February 5, 2020, Mr. Treace's base salary was $320,000, Mr. Frias' base salary was $221,048 and Mr. Jordheim's base salary was $226,883. Mr. Hair's base salary was $300,000, pro-rated for his partial employment commencing in September 2020. Our board of directors and compensation committee may adjust base salaries from time to time in their discretion. In February 2021, our board approved increasing Messrs. Treace, Hair and Frias' base salaries to $380,000, $303,000 and $270,000, respectively, with such increases being effective upon approval. In March 2021, our board of directors approved increasing Messrs. Treace and Hair's base salaries to $400,000 and $320,000, respectively, contingent and effective upon the effectiveness of the registration statement to which this prospectus relates.

Non-Equity Incentive Payments for 2020

Each of our NEOs participates in our annual cash incentive plan. Our annual cash incentive plan for 2020 (2020 Bonus Plan) provided for cash incentive compensation based upon achievement of our revenue and adjusted EBITDA performance goals for 2020. For the 2020 Bonus Plan, the target bonus for each of our NEOs is 40% of the NEO's base salary paid (not earned) from the start of the plan year to the end of the plan year. The 2020 Bonus Plan was amended in July 2020 to adjust revenue and EBITDA targets due to the COVID-19 pandemic and the associated temporary suspension of elective surgeries. After a review of our revenue and EBITDA goals against targets, based on the formula in the 2020 Bonus Plan, we paid bonuses at 64.7% of the target amount. Mr. Hair's payment under the 2020 Bonus Plan was pro-rated for his partial service commencing in September 2020. Mr. Frias also received an additional one-time cash bonus of $5,000 on top of his annual performance bonus for his individual performance in 2020. In March 2021, our board of directors approved changing the 2021 bonus targets for each of Messrs. Treace, Hair and Frias to 75%, 50% and 50%, respectively, of their base salary, in each case, contingent and effective upon the effectiveness of the registration statement to which this prospectus relates.

Equity-Based Compensation

In fiscal year 2020, we made equity award grants to each of our NEOs, except for Mr. Treace. In January 2020, we granted Messrs. Frias and Jordheim each an option to purchase 31,500 shares of our common stock. In September 2020, in connection with his commencement of employment, we granted Mr. Hair an option to purchase 240,000 shares of our common stock. In addition, in October 2020, Mr. Hair received another option to purchase 160,000 shares of our common stock. Each of Mr. Hair's options vests as to 25% of the shares on each anniversary of September 21, 2020, subject to his continuing to provide services to us through such vesting date.

We intend to adopt a 2021 Incentive Award Plan, referred to below as the 2021 Plan, in order to facilitate the grant of cash and equity incentives to directors, employees (including our NEOs) and consultants of our company and certain of its affiliates and to enable us to obtain and retain services of these individuals, which is essential to our long-term success. We expect that the 2021 Plan will be effective on the date on which it is adopted by our board of directors, subject to approval of such plan by our stockholders. For additional information about the 2021 Plan, please see the section titled "2021 Incentive Award Plan" below.

Other Elements of Compensation

Retirement Savings and Health and Welfare Benefits

Effective as of January 2021, we adopted a 401(k) profit sharing plan for our employees, including our NEOs, who satisfy certain eligibility requirements. Our NEOs are eligible to participate in the 401(k) plan on the same terms as other full-time employees. We match employee contributions to the 401(k) plan at a rate equal to 100% of the first 3% of the employee's pre-tax salary contributed and 50% of any additional contributions, including and up to 5% of the employee's pre-tax salary. Participants vest in their company matching contributions after 90 days of service and in any potential future nonelective contributions by us on a one to six year graded vesting schedule. We believe that providing a vehicle for tax-deferred retirement savings through our 401(k) plan adds to the overall desirability of our executive compensation package and further incentivizes our employees, including our NEOs, in accordance with our compensation policies. All of our full-time employees, including our NEOs, are eligible to participate in our health and welfare plans.

Perquisites and Other Personal Benefits

We determine perquisites on a case-by-case basis and will provide a perquisite to an NEO when we believe it is necessary to attract or retain the NEO. For fiscal year 2020, no NEO received any additional perks. In connection with his commencement of employment with us and his travel to our offices in the Jacksonville area, we agreed to reimburse Mr. Hair for his temporary housing and travel before his full-time relocation that is anticipated to occur in 2021 and related tax gross-up payment for the relocation, housing and commuting expenses. No such payments or reimbursements were paid to Mr. Hair in 2020.

Outstanding Equity Awards at 2020 Fiscal Year-End

The following table sets forth information regarding outstanding stock options and stock awards held by our NEOs as of December 31, 2020. Mr. Treace has not been granted any stock options. In connection with Mr. Jordheim's departure in July 2020, any unvested equity awards were terminated as of the date of termination and Mr. Jordheim exercised all of his outstanding vested equity awards that remained outstanding during his advisory services before December 31, 2020.

	Option Awards				
Name	Vesting Commencement Date(1)	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options Unexercisable (#)	Option Exercise Price ($)	Option Expiration Date
Mark L. Hair	9/21/2020	—	240,000	7.81	9/21/2030
	9/21/2020	—	160,000	7.81	9/21/2030
Jaime A. Frias	7/1/2014(2)	50,000	—	0.13	7/1/2024
	7/28/2015(2)	50,000	—	0.96	7/28/2025
	1/26/2016(2)	20,000	—	0.96	1/26/2026
	1/30/2017(2)	18,000	—	1.40	1/30/2027
	7/24/2017	224,999	75,001	1.40	7/24/2027
	1/23/2018	10,000	10,000	1.40	1/23/2028
	1/22/2019	10,000	30,000	2.10	1/22/2029
	1/21/2020	—	31,500	5.38	1/21/2030

(1) Each of the outstanding equity awards was granted under our 2014 Stock Plan and the individual option agreements provide that each option will accelerate upon a change in control (as defined in the 2014 Stock Plan), subject to the NEO's continued service through immediately prior such change in control. Unless otherwise indicated, the options generally vest over four years from the grant date in 25% annual installments on the first four anniversaries of the vesting commencement date, subject to the applicable NEO's continued service through each such vesting date.

(2) The option vests over three years from the grant date in one-third annual installments on the first three anniversaries of the vesting commencement date, subject to Mr. Frias' continued service through each such vesting date.

Executive Compensation Arrangements

NEO Change in Control and Severance Agreements

In October 2020, we entered into change of control agreements with each of our NEOs other than Mr. Treace. Under each of these agreements, if, within the period 18 months after a "change of control" (such period, the change in control period), we terminate the employment of the applicable NEO without "cause" (excluding by reason of the employee's death or "disability,") or the NEO resigns for "good reason" (as such terms are defined in the NEO's change of control and severance agreement) and the NEO executes a separation agreement and release of claims that becomes effective and irrevocable within 60 days following the NEO's termination and provides a written attestation that his or her confidentiality agreement is in effect and enforceable, the NEO is entitled to receive (i) continued payment of the NEO's annual base salary for 12 months, (ii) payment over a 12 month period equal to 100% of the NEO's annual target bonus for the year in which the termination occurs, (iii) reimbursement of COBRA premiums for 18 months, and (iv) up to $10,000 in outplacement services.

In addition, pursuant to individual option agreements under the 2014 Stock Plan, each NEO's outstanding stock options will accelerate in full upon a change in control (as defined in the 2014 Stock Plan), subject to the NEO's continued service through immediately prior such change in control.

Under each of these agreements, in the event any payment to the applicable employee under his or her change of control and severance agreement would be subject to the excise tax imposed by Section 4999 of the Code (as a result of a payment being classified as a parachute payment under Section 280G of the Code), the employee will receive a lump sum payment equal to 100% of such excise tax, plus an amount equal to the federal and state income tax, FICA, and Medicare taxes (based upon the NEO's projected marginal income tax rates) on such lump sum payment.

Under the severance agreement with Mr. Hair, we also agreed to pay Mr. Hair severance benefits equal to those payable upon a change of control as described above if Mr. Hair's employment is terminated without cause or he resigns for good reason if such termination occurs on or before September 21, 2022, regardless of whether such termination occurs before or after a change in control.

Offer Letter Agreement for Mark Hair

In connection with Mr. Hair's commencement of employment with us in September 2020, we entered into an offer letter agreement under which he was entitled to an annual base salary, target annual bonus, eligibility to participate in our benefit plans and an option as described above. Mr. Hair's annual salary under the offer letter agreement is $300,000. Mr. Hair was also eligible to receive a sign-on bonus of $10,000, payable in connection with his commencement of employment with us in September 2020 and a stock option grant equal to 0.6% of our fully diluted shares. Accordingly, we granted him an option to purchase 240,000 shares, which shall vest with respect to 25% of the shares on each anniversary of September 21, 2020, subject to Mr. Hair's continued service through the applicable vesting date. We also agreed to pay Mr. Hair a special event bonus of $150,000 at completion of the earlier of (i) the closing of a fully underwritten, firm commitment public offering with proceeds exceeding $50 million, or (ii) the sale of our company which results in a change of control. Mr. Hair was also eligible to receive an additional option grant equal to 0.4% of our fully diluted shares if by May 1, 2021, no change of control of our company has occurred and Mr. Hair is still employed by us. We granted him this option in October 2020 to purchase 160,000 shares. The additional option shall vest with respect to 25% of the shares on each anniversary of September 21, 2020, subject to Mr. Hair's continued service through the applicable vesting date. In connection with Mr. Hair's relocation to the Jacksonville area from California anticipated to occur in 2021, the offer letter agreement and a subsequent understanding between Mr. Hair and us provide that (1) he will receive temporary housing reimbursements up to $3,000 per month through August 2021, (2) reimbursement of reasonable round trip travel to our offices in Jacksonville from Mr. Hair's home office in California up to once every two weeks and (3) a tax gross-up payment for any taxes owed by Mr. Hair related to the reimbursements by us for the temporary housing and travel expenses.

Offer Letter Agreement for Jaime A. Frias

In connection with Mr. Frias' commencement of employment with us in July 2017, we entered into an offer letter agreement under which he was entitled to an annual base salary, target annual bonus and an initial stock option grant and is eligible to participate in our benefit plans.

Separation Agreement for Robert P. Jordheim

Effective as of July 2020, Mr. Jordheim ceased to serve as our Chief Financial Officer, but continued to provide advisory services to us through December 2020. In connection with Mr. Jordheim's separation, we entered into a release agreement where we provided to Mr. Jordheim (i) an aggregate separation payment of $279,823 (representing 12 months of base salary and pro-rated annual performance bonus assuming target achievement through his termination date) and (ii) payment of continued health, dental and vision insurance premiums for himself and any covered dependents for 12 months. In addition, all of Mr. Jordheim's unvested shares subject to his options as of his separation date were terminated for no consideration in accordance with their terms, and his vested shares subject to his options remained outstanding while he provided advisory services to us. The separation benefits set forth in Mr. Jordheim's separation agreement are in full satisfaction of his separation benefits under his change in control severance agreement and were in exchange of a general release of claims against us and our affiliates and continued compliance with his confidentiality, non-competition, non-solicitation and inventions assignment agreement.

Equity Compensation Plans

The following summarizes the material terms of the long-term incentive compensation plan in which our NEOs will be eligible to participate following the consummation of this offering and our 2014 Stock Plan, under which we have previously made periodic grants of equity and equity-based awards to our named executive officers and other key employees.

2021 Incentive Award Plan

We intend to adopt the 2021 Plan, which will be effective on the day before the first public trading date of our common stock. The principal purpose of the 2021 Plan is to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards and cash-based performance bonus awards. The material terms of the 2021 Plan, as it is currently contemplated, are summarized below.

Share Reserve. Under the 2021 Plan, shares of our common stock will be initially reserved for issuance pursuant to a variety of stock-based compensation awards, including stock options, stock appreciation rights (SARs), restricted stock awards, restricted stock unit awards and other stock-based awards. The number of shares initially reserved for issuance or transfer pursuant to awards under the 2021 Plan will be increased by an annual increase on the first day of each fiscal year beginning in 2022 and ending in 2031, equal to the lesser of (i) % of the shares of stock outstanding (on an as converted basis) on the last day of the immediately preceding fiscal year and (ii) such smaller number of shares of stock as determined by our board of directors; provided, however, that no more than shares of stock may be issued upon the exercise of incentive stock options.

The following counting provisions will be in effect for the share reserve under the 2021 Plan:

- to the extent that an award terminates, expires or lapses for any reason or an award is settled in cash without the delivery of shares, any shares subject to the award at such time will be available for future grants under the 2021 Plan;
- to the extent shares are tendered or withheld to satisfy the grant, exercise price or tax withholding obligation with respect to any award under the 2021 Plan, such tendered or withheld shares will be available for future grants under the 2021 Plan;

- to the extent shares subject to SARs are not issued in connection with the stock settlement of SARs on exercise thereof, such shares will be available for future grants under the 2021 Plan;
- to the extent that shares of our common stock are repurchased by us prior to vesting so that shares are returned to us, such shares will be available for future grants under the 2021 Plan;
- the payment of dividend equivalents in cash in conjunction with any outstanding awards will not be counted against the shares available for issuance under the 2021 Plan; and
- to the extent permitted by applicable law or any exchange rule, shares issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by us or any of our subsidiaries will not be counted against the shares available for issuance under the 2021 Plan.

Administration. The compensation committee of our board of directors is expected to administer the 2021 Plan unless our board of directors assumes authority for administration. The compensation committee must consist of at least three members of our board of directors, each of whom is intended to qualify as a "non-employee director" for purposes of Rule 16b-3 under the Exchange Act and an "independent director" within the meaning of the rules of the applicable stock exchange, or other principal securities market on which shares of our common stock are traded. The 2021 Plan provides that the board or compensation committee may delegate its authority to grant awards to employees other than our executive officers and certain senior executives to a committee consisting of one or more members of our board of directors or one or more of our officers, other than awards made to our non-employee directors, which must be approved by our full board of directors.

Subject to the terms and conditions of the 2021 Plan, the administrator has the authority to select the persons to whom awards are to be made, to determine the number of shares to be subject to awards and the terms and conditions of awards, and to make all other determinations and to take all other actions necessary or advisable for the administration of the 2021 Plan. The administrator is also authorized to adopt, amend or rescind rules relating to administration of the 2021 Plan. Our board of directors may at any time remove the compensation committee as the administrator and revest in itself the authority to administer the 2021 Plan. The full board of directors will administer the 2021 Plan with respect to awards to non-employee directors.

Eligibility. Options, SARs, restricted stock and all other stock-based and cash-based awards under the 2021 Plan may be granted to individuals who are then our officers, employees or consultants or are the officers, employees or consultants of certain of our subsidiaries. Such awards also may be granted to our directors. Only employees of our company or certain of our subsidiaries may be granted incentive stock options.

Awards. The 2021 Plan provides that the administrator may grant or issue stock options, SARs, restricted stock, restricted stock units, other stock- or cash-based awards and dividend equivalents, or any combination thereof. Each award will be set forth in a separate agreement with the person receiving the award and will indicate the type, terms and conditions of the award.

- *Nonstatutory Stock Options* (NSOs), will provide for the right to purchase shares of our common stock at a specified price which may not be less than fair market value on the date of grant, and usually will become exercisable (at the discretion of the administrator) in one or more installments after the grant date, subject to the participant's continued employment or service with us and/or subject to the satisfaction of corporate performance targets and individual performance targets established by the administrator. NSOs may be granted for any term specified by the administrator that does not exceed ten years.
- *Incentive Stock Options* (ISOs), will be designed in a manner intended to comply with the provisions of Section 422 of the Code and will be subject to specified restrictions contained in the Code. Among such restrictions, ISOs must have an exercise price of not less than the fair market value of a share of common stock on the date of grant, may only be granted to employees, and must not be exercisable after a period of ten years measured from the date of grant. In the case of an ISO granted to an individual who owns (or is deemed to own) at least 10% of the total combined voting power of all

classes of our capital stock, the 2021 Plan provides that the exercise price must be at least 110% of the fair market value of a share of common stock on the date of grant and the ISO must not be exercisable after a period of five years measured from the date of grant.

- *Restricted Stock* may be granted to any eligible individual and made subject to such restrictions as may be determined by the administrator. Restricted stock, typically, may be forfeited for no consideration or repurchased by us at the original purchase price if the conditions or restrictions on vesting are not met. In general, restricted stock may not be sold or otherwise transferred until restrictions are removed or expire. Purchasers of restricted stock, unlike recipients of options, will have voting rights and will have the right to receive dividends, if any, before the time when the restrictions lapse, however, extraordinary dividends will generally be placed in escrow, and will not be released until restrictions are removed or expire.
- *Restricted Stock Units* may be awarded to any eligible individual, typically without payment of consideration, but subject to vesting conditions based on continued employment or service or on performance criteria established by the administrator. Like restricted stock, restricted stock units may not be sold, or otherwise transferred or hypothecated, until vesting conditions are removed or expire. Unlike restricted stock, stock underlying restricted stock units will not be issued until the restricted stock units have vested, and recipients of restricted stock units generally will have no voting or dividend rights before the time when vesting conditions are satisfied.
- *SARs* may be granted in connection with stock options or other awards, or separately. SARs granted in connection with stock options or other awards typically will provide for payments to the holder based upon increases in the price of our common stock over a set exercise price. The exercise price of any SAR granted under the 2021 Plan must be at least 100% of the fair market value of a share of our common stock on the date of grant. SARs under the 2021 Plan will be settled in cash or shares of our common stock, or in a combination of both, at the election of the administrator.
- *Other Stock or Cash Based Awards* are awards of cash, fully vested shares of our common stock and other awards valued wholly or partially by referring to, or otherwise based on, shares of our common stock. Other stock or cash based awards may be granted to participants and may also be available as a payment form in the settlement of other awards, as standalone payments and as payment in lieu of base salary, bonus, fees or other cash compensation otherwise payable to any individual who is eligible to receive awards. The plan administrator will determine the terms and conditions of other stock or cash based awards, which may include vesting conditions based on continued service, performance and/or other conditions.
- *Dividend Equivalents* represent the right to receive the equivalent value of dividends paid on shares of our common stock and may be granted alone or in tandem with awards other than stock options or SARs. Dividend equivalents are credited as of dividend payments dates during the period between a specified date and the date such award terminates or expires, as determined by the plan administrator. In addition, dividend equivalents with respect to shares covered by a performance award will only be paid to the participant at the same time or times and to the same extent that the vesting conditions, if any, are subsequently satisfied and the performance award vests with respect to such shares.

Any award may be granted as a performance award, meaning that the award will be subject to vesting and/or payment based on the attainment of specified performance goals.

Change in Control. In the event of a change in control, unless the plan administrator elects to terminate an award in exchange for cash, rights or other property, or cause an award to accelerate in full before the change in control, such award will continue in effect or be assumed or substituted by the acquirer, provided that any performance-based portion of the award will be subject to the terms and conditions of the applicable award agreement. In the event the acquirer refuses to assume or replace awards granted, before the consummation of such transaction, awards issued under the 2021 Plan will be subject to accelerated vesting such that 100% of such

awards will become vested and exercisable or payable, as applicable. The administrator may also make appropriate adjustments to awards under the 2021 Plan and is authorized to provide for the acceleration, cash-out, termination, assumption, substitution or conversion of such awards in the event of a change in control or certain other unusual or nonrecurring events or transactions.

Adjustments of Awards. In the event of any stock dividend or other distribution, stock split, reverse stock split, reorganization, combination or exchange of shares, merger, consolidation, split-up, spin-off, recapitalization, repurchase or any other corporate event affecting the number of outstanding shares of our common stock or the share price of our common stock that would require adjustments to the 2021 Plan or any awards under the 2021 Plan in order to prevent the dilution or enlargement of the potential benefits intended to be made available thereunder, the administrator will make appropriate, proportionate adjustments to: (i) the aggregate number and type of shares subject to the 2021 Plan; (ii) the number and kind of shares subject to outstanding awards and terms and conditions of outstanding awards (including, without limitation, any applicable performance targets or criteria with respect to such awards); and (iii) the grant or exercise price per share of any outstanding awards under the 2021 Plan.

Amendment and Termination. The administrator may terminate, amend or modify the 2021 Plan at any time and from time to time. However, we must generally obtain stockholder approval to the extent required by applicable law, rule or regulation (including any applicable stock exchange rule). Notwithstanding the foregoing, an option may be amended to reduce the per share exercise price below the per share exercise price of such option on the grant date and options may be granted in exchange for, or in connection with, the cancellation or surrender of options having a higher per share exercise price without receiving additional stockholder approval.

No incentive stock options may be granted pursuant to the 2021 Plan after the tenth anniversary of the effective date of the 2021 Plan, and no additional annual share increases to the 2021 Plan's aggregate share limit will occur from and after such anniversary. Any award that is outstanding on the termination date of the 2021 Plan will remain in force according to the terms of the 2021 Plan and the applicable award agreement.

2021 Employee Stock Purchase Plan

We intend to adopt and ask our stockholders to approve the 2021 Employee Stock Purchase Plan, which we refer to as our ESPP, which will be effective upon the day prior to the effectiveness of the registration statement to which this prospectus relates. The ESPP is designed to allow our eligible employees to purchase shares of our common stock, at semi-annual intervals, with their accumulated payroll deductions. The ESPP is intended to qualify under Section 423 of the Code. The material terms of the ESPP, as it is currently contemplated, are summarized below.

Administration. Subject to the terms and conditions of the ESPP, our compensation committee will administer the ESPP. Our compensation committee can delegate administrative tasks under the ESPP to the services of an agent and/or employees to assist in the administration of the ESPP. The administrator will have the discretionary authority to administer and interpret the ESPP. Interpretations and constructions of the administrator of any provision of the ESPP or of any rights thereunder will be conclusive and binding on all persons. We will bear all expenses and liabilities incurred by the ESPP administrator.

Share Reserve. The maximum number of shares of our common stock which will be authorized for sale under the ESPP is equal to the sum of (i) shares of common stock and (ii) an annual increase on the first day of each year beginning in 2022 and ending in 2031, equal to the lesser of (1) 1% of the shares of common stock outstanding (on an as converted basis) on the last day of the immediately preceding fiscal year and (2) such number of shares of common stock as determined by our board of directors; provided, however, no more than shares of our common stock may be issued under the ESPP. The shares reserved for issuance under the ESPP may be authorized but unissued shares or reacquired shares.

Eligibility. Employees eligible to participate in the ESPP for a given offering period generally include employees who are employed by us or one of our subsidiaries on the first day of the offering period, or the enrollment date. Our employees (and, if applicable, any employees of our subsidiaries) who customarily work less than five months in a calendar year or are customarily scheduled to work less than 20 hours per week will not be eligible to participate in the ESPP. Finally, an employee who owns (or is deemed to own through attribution) 5% or more of the combined voting power or value of all our classes of stock or of one of our subsidiaries will not be allowed to participate in the ESPP.

Participation. Employees will enroll under the ESPP by completing a payroll deduction form permitting the deduction from their compensation of at least 1% of their compensation but not more than the lesser of 15% of their compensation or $50,000. Such payroll deductions may be expressed as either a whole number percentage or a fixed dollar amount, and the accumulated deductions will be applied to the purchase of shares on each purchase date. However, a participant may not purchase more than 15,000 shares in each offering period and may not subscribe for more than $25,000 in fair market value of shares of our common stock (determined at the time the option is granted) during any calendar year. The ESPP administrator has the authority to change these limitations for any subsequent offering period.

Offering. Under the ESPP, participants are offered the option to purchase shares of our common stock at a discount during a series of successive offering periods, the duration and timing of which will be determined by the ESPP administrator. However, in no event may an offering period be longer than 27 months in length.

The option purchase price will be the lower of 85% of the closing trading price per share of our common stock on the first trading date of an offering period in which a participant is enrolled or 85% of the closing trading price per share on the purchase date, which will occur on the last trading day of each offering period.

Unless a participant has previously canceled his or her participation in the ESPP before the purchase date, the participant will be deemed to have exercised his or her option in full as of each purchase date. Upon exercise, the participant will purchase the number of whole shares that his or her accumulated payroll deductions will buy at the option purchase price, subject to the participation limitations listed above.

A participant may cancel his or her payroll deduction authorization at any time before the end of the offering period. Upon cancellation, the participant will have the option to either (i) receive a refund of the participant's account balance in cash without interest or (ii) exercise the participant's option for the current offering period for the maximum number of shares of common stock on the applicable purchase date, with the remaining account balance refunded in cash without interest. Following at least one payroll deduction, a participant may also decrease (but not increase) his or her payroll deduction authorization once during any offering period. If a participant wants to increase or decrease the rate of payroll withholding, he or she may do so effective for the next offering period by submitting a new form before the offering period for which such change is to be effective.

A participant may not assign, transfer, pledge or otherwise dispose of (other than by will or the laws of descent and distribution) payroll deductions credited to a participant's account or any rights to exercise an option or to receive shares of our common stock under the ESPP, and during a participant's lifetime, options in the ESPP shall be exercisable only by such participant. Any such attempt at assignment, transfer, pledge or other disposition will not be given effect.

Adjustments upon Changes in Recapitalization, Dissolution, Liquidation, Merger or Asset Sale. In the event of any increase or decrease in the number of issued shares of our common stock resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the common stock, or any other increase or decrease in the number of shares of common stock effected without receipt of consideration by us, we will proportionately adjust the aggregate number of shares of our common stock offered under the ESPP, the number and price of shares which any participant has elected to purchase under the ESPP and the maximum number of

shares which a participant may elect to purchase in any single offering period. If there is a proposal to dissolve or liquidate us, then the ESPP will terminate immediately before the consummation of such proposed dissolution or liquidation, and any offering period then in progress will be shortened by setting a new purchase date to take place before the date of our dissolution or liquidation. We will notify each participant of such change in writing at least ten business days before the new exercise date. If we undergo a merger with or into another corporation or sell all or substantially all of our assets, each outstanding option will be assumed or an equivalent option substituted by the successor corporation or the parent or subsidiary of the successor corporation. If the successor corporation refuses to assume the outstanding options or substitute equivalent options, then any offering period then in progress will be shortened by setting a new purchase date to take place before the date of our proposed sale or merger. We will notify each participant of such change in writing at least ten business days before the new exercise date.

Amendment and Termination. Our board of directors may amend, suspend or terminate the ESPP at any time. However, the board of directors may not amend the ESPP without obtaining stockholder approval within 12 months before or after such amendment to the extent required by applicable laws.

2014 Stock Plan, as Amended

2014 Stock Plan. Our board of directors adopted, and our stockholders approved, our 2014 Stock Plan (2014 Plan) in July 2014. Our 2014 Plan was most recently amended in November 2020. Our 2014 Plan allows for the grant of incentive stock options, within the meaning of Section 422 of the Code, to our employees and our parent and subsidiary corporations' employees, and for the grant of nonstatutory stock options and stock purchase rights to our employees, directors and consultants and our parent and subsidiary corporations' employees, directors and consultants.

Authorized Shares. Our 2014 Plan will be terminated in connection with this offering, and accordingly, no shares will be available for issuance under the 2014 Plan following the completion of this offering. Our 2014 Plan will continue to govern outstanding awards granted thereunder. As of December 31, 2020, options to purchase 6,042,544 shares of our common stock remained outstanding under our 2014 Plan. In the event that an outstanding option or other right for any reason expires or is canceled, the shares allocable to the unexercised portion of such option or other right shall be added to the number of shares then available for issuance under the 2021 Plan once adopted by our board of directors and our stockholders.

Plan Administration. Our board of directors or a committee of our board (the administrator) administers our 2014 Plan. Subject to the provisions of the 2014 Plan, the administrator has the full authority and discretion to take any actions it deems necessary or advisable for the administration of the 2014 Plan. All decisions, interpretations and other actions of the administrator are final and binding on all participants in the 2014 Plan.

Options. Stock options may be granted under our 2014 Plan. The exercise price per share of all incentive stock options must equal at least 100% of the fair market value per share of our common stock on the date of grant, as determined by the administrator. The term of a stock option may not exceed 10 years. With respect to any participant who owns 10% of the voting power of all classes of our outstanding stock as of the grant date, the term of an incentive stock option granted to such participant must not exceed five years and the exercise price per share of such incentive stock option must equal at least 110% of the fair market value per share of our common stock on the date of grant, as determined by the administrator. The 2014 Plan administrator determines the terms and conditions of options.

After an employee, director or consultant ceases to be a "service provider" (as defined in the 2014 Plan), he or she may exercise his or her option for the period of time as specified in the applicable option agreement. If termination is due to death or disability, the option generally will remain exercisable for at least six months. In all other cases, the option will generally remain exercisable for at least 30 days. However, an option generally may not be exercised later than the expiration of its term.

Stock Purchase Rights. Stock purchase rights may be granted under our 2014 Plan as a purchasable award. The administrator will determine the purchase price, the number of shares granted to the award recipient and the time within which the person must accept the offer.

Transferability of Awards. Unless our administrator provides otherwise, our 2014 Plan generally does not allow for the transfer or assignment of options or stock purchase rights, except by will or by the laws of descent and distribution. Shares issued upon exercise of an option will be subject to such terms and conditions as the administrator may determine, including rights of first refusal and other transfer restrictions.

Certain Adjustments. In the event of a dividend or other distribution, recapitalization, stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of our common stock or other securities, or other change in our corporate structure affecting the common stock, the administrator has discretion to adjust the number and class of shares that may be delivered under the 2014 Plan and/or the number, class, and price of shares covered by each outstanding option or stock purchase right.

Merger or Change in Control. Our 2014 Plan provides that, in the event that we are a party to a merger or change in control, outstanding options and stock purchase rights shall be assumed or substituted by the successor corporation or a parent or subsidiary thereof. In the event the successor corporation refuses to assume or substitute for the option or stock purchase right, then the vesting of such awards will be fully accelerated and the administrator will notify the holder in writing or electronically that such awards will be fully exercisable and vested for a period of at least 15 days as determined by the administrator, and such awards will terminate upon expiration of such period. Notwithstanding the foregoing, our individual stock option agreements under the 2014 Plan all provide that, immediately upon a merger or a change in control of our company, the options shall fully vest and the option-holder will have the right to exercise all of the subject shares as of the date of such event.

Amendment; Termination. Our board of directors may amend, suspend or terminate our 2014 Plan at any time, provided that such action does not impair a participant's rights under outstanding awards without such participant's written consent. As noted above, upon completion of this offering, our 2014 Plan will be terminated and no further awards will be granted thereunder. All outstanding awards will continue to be governed by their existing terms.

CERTAIN RELATIONSHIPS AND RELATED-PARTY TRANSACTIONS

Other than compensation arrangements, we describe below those transactions and series of similar transactions, since January 1, 2017, to which we were a party or will be a party, in which:

- the amounts involved exceeded or will exceed $120,000; and
- any of our directors, executive officers, or holders of more than 5% of our common stock, or any member of the immediate family of the foregoing persons, had or will have a direct or indirect material interest.

Compensation arrangements for our directors and NEOs are described elsewhere in this prospectus.

Certain Transactions with Related Persons

Convertible Promissory Note Financing

On January 30, 2017, certain of our directors and officers collectively invested an aggregate of $2.1 million in our 8% convertible notes (the Convertible Notes). The aggregate principal amount and accrued interest on the Convertible Notes converted into shares of our Series A convertible preferred stock at a conversion price of $1.60 per share upon the initial closing of the initial tranche of our Series A convertible preferred stock financing in March 2017.

The following table summarizes the Convertible Notes purchased by our officers and directors and their affiliated entities or immediate family members.

Investor	Convertible Notes Purchased
F. Barry Bays	$ 446,000
Jaime A. Frias	$ 50,000
Richard W. Mott	$ 467,000
Thomas E. Timbie	$ 200,000
John R. Treace	$ 300,000
John T. Treace	$ 150,000
James T. Treace	$ 467,000

Series A Convertible Preferred Stock Financing

On May 1, 2017, we issued to certain of our directors and officers 3,040,625 shares of our Series A convertible preferred stock in exchange for a total of $4.865 million, including the $2.1 million from the Convertible Notes and an additional $2.765 million committed in the offering.

The following table summarizes the Series A convertible preferred stock originally purchased by our officers and directors and their affiliated entities or immediate family members. Each share of Series A convertible preferred stock will automatically convert into one share of our common stock upon the completion of this offering.

Investor	Shares of Series A Convertible Preferred Stock Purchased
F. Barry Bays	603,705
Jaime A. Frias	93,750
John K. Bakewell	250,000
Joe W. Ferguson	62,500
Richard W. Mott	510,625
Robert P. Jordheim	62,500
Thomas E. Timbie	218,750
John R. Treace	312,500
John T. Treace	218,750
James T. Treace	707,500

Stockholders Agreement

Certain of our stockholders, including James T. Treace, John. R. Treace, F. Barry Bays, Richard W. Mott and Thomas E. Timbie, and our NEOs, have entered into an amended and restated stockholders agreement, which will be terminated in connection with this offering by an agreement among the parties thereto.

Employment of Immediate Family

In October 2017, we hired Tori Dapas, the brother-in-law of John T. Treace and the son-in-law of John R. Treace, as a Regional Sales Manager. For 2020, Tori Dapas was paid a total of $0.2 million in salary.

Directed Share Program

At our request, the underwriters have reserved up to % of the shares offered by this prospectus for sale at the initial public offering price to certain individuals through a directed share program, including our directors, officers and certain other individuals identified by our officers or management. See the section titled “Underwriting” for additional information.

Indemnification Agreements and Directors’ and Officers’ Liability Insurance

We have entered into indemnification agreements with each of our directors and executive officers. These agreements will require us to, among other things, indemnify each of our directors and certain executive officers to the fullest extent permitted by Delaware law, including indemnification of expenses such as attorneys’ fees, judgments, penalties, fines and settlement amounts incurred by the director or executive officer in any action or proceeding, including any action or proceeding by or in right of us, arising out of the person’s services as a director or executive officer. We have obtained an insurance policy that insures our directors and officers against certain liabilities, including liabilities arising under applicable securities laws. For additional information see the section titled. “Management—Limitations on Liability and Indemnification Matters.”

Policies and Procedures for Related Party Transactions

Our board of directors has adopted a written related person transaction policy, to be effective upon the consummation of this offering, setting forth the policies and procedures for the review and approval or ratification of related person transactions. This policy covers, with certain exceptions set forth in Item 404 of Regulation S-K under the Securities Act, any transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships in which we were or are to be a participant, a related person had or will have a direct or indirect material interest, including without limitation purchases of goods or services by or from the related person or entities in which the related person has a material interest, indebtedness, guarantees of indebtedness and employment by us of a related person. In reviewing and approving any such transactions, our audit committee is tasked to consider all relevant facts and circumstances, including but not limited to whether the transaction is on terms comparable to those that could be obtained in an arm's length transaction with an unrelated third party and the extent of the related person's interest in the transaction. All of the transactions described in this section occurred prior to the adoption of this policy. However, all of the transactions described above were entered into after presentation, consideration and approval by our board of directors.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table provides information concerning beneficial ownership of our common stock as of March 1, 2021, by:

- each person, or group of affiliated person, known by us to beneficially own more than 5% of our outstanding common stock;
- each of our directors;
- each of our named executive officers;
- all of our executive officers and directors as a group; and
- the selling stockholders, which are indicated by the stockholder shown as having shares listed in the column "Shares Being Offered" below.

The number of shares beneficially owned by each entity, person, director or executive officer is determined in accordance with the rules of the SEC, and the information is not necessarily indicative of beneficial ownership for any other purpose. Under such rules, beneficial ownership includes any shares over which the individual has sole or shared voting power or investment power as well as any shares that the individual has the right to acquire within 60 days after December 31, 2020 through the exercise of any stock option, warrants or other rights. Except as otherwise indicated, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to all shares of our common stock held by that person.

The percentage of shares beneficially owned is computed on the basis of 32,937,859 shares of our common stock outstanding as of December 31, 2020, which reflects the automatic conversion of all 5,000,000 of our outstanding shares of Series A convertible preferred stock into an equivalent number of shares of our common stock. Shares of our common stock that a person has the right to acquire within 60 days after December 31, 2020 are deemed outstanding for purposes of computing the percentage ownership of the person holding such rights, but are not deemed outstanding for purposes of computing the percentage ownership of any other person, except with respect to the percentage ownership of all directors and executive officers as a group. Percentage ownership of our common stock after the offering assumes the sale of shares by us and shares by the selling stockholders in this offering and no shares purchased by such parties in this offering.

Except as indicated in the footnotes to this table, (i) the persons or entities named have sole voting and investment power with respect to all shares of our common stock shown as beneficially owned by them, and (ii) the address for each beneficial owner is c/o Treace Medical Concepts, Inc., 203 Fort Wade Rd., Suite 150, Ponte Vedra, Florida 32081.

When we refer to the "selling stockholder" in this prospectus, we mean the stockholder listed in the table below as offering shares, as well as the pledgees, donees, assignees, transferees, successors and others who may hold any of the selling stockholder's interests.

We have granted the underwriters an option exercisable for 30 days after the date of this prospectus, to purchase, from time to time, in whole or in part, up to an aggregate of shares from us at the public offering price less estimated underwriting discounts and commissions. Such option is not reflected in the table below.

The table below excludes any purchases that may be made through our directed share program and any potential purchases in this offering by the beneficial owners identified in the table below.

For further information regarding material transactions between us and certain of our stockholders, see "Certain Relationships and Related Party Transactions."

	Shares Beneficially Owned Prior to the Offering					Shares Beneficially Owned After the Offering	
Name of Beneficial Owner	Number of Shares Outstanding	Number of Shares Exercisable Within 60 Days	Number of Shares Beneficially Owned	Percentage	Number of Shares Being Offered	Number of Shares Beneficially Owned	Percentage
John T. Treace(1)	8,347,255	—	12,022,255	35.9%			
John R. Treace(2)	2,017,159	—	2,842,159	8.5%			
Thomas E. Timbie(3)	2,103,409	—	2,103,409	6.3%			
James T. Treace(4)	1,641,875	—	2,737,783	8.2%			
Richard W. Mott(5)	1,257,215	—	1,557,215	4.7%			
F. Barry Bays(6)	1,285,028	—	1,285,028	3.8%			
Jaime A. Frias(7)	444,563	405,876	850,439	2.5%			
Robert P. Jordheim(8)	486,104	—	486,104	1.5%			
John K. Bakewell(9)	250,000	11,856	261,856	*			
Lawrence W. Hamilton(10)	—	11,856	11,856	*			
Mark L. Hair	—	—	—	*			
All executive officers and directors as a group (14 persons)(11)	17,895,108	1,904,089	25,695,105	72.7%			

* Indicates beneficial ownership of less than 1% of our total outstanding common stock.

(1) Consists of (i) 8,128,505 shares of our common stock, (ii) 218,750 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future), (iii) 1,200,000 shares of our common stock held by Mr. Treace's wife, (iv) 1,375,000 shares of our common stock, held by Mr. Treace as trustee of a trust and (v) 1,100,000 shares of our common stock held by Mr. Treace's wife as co-trustee of a trust for Mr. Treace's descendants. Mr. Treace disclaims beneficial ownership of shares held by his wife directly or in trusts for which his wife serves as trustee or co-trustee.

(2) Consists of (i) 1,704,659 shares of our common stock, held jointly by Mr. Treace and Mr. Treace's wife, (ii) 312,500 shares of Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future), held jointly by Mr. Treace and Mr. Treace's wife, (iii) 400,000 shares of our common stock held by Mr. Treace as co-trustee of a trust and (iv) 425,000 shares of our common stock held by Mr. Treace as co-trustee of a trust. John R. Treace disclaims beneficial ownership of shares held in trusts for which he is a co-trustee.

(3) Consists of (i) 1,884,659 shares of our common stock and (ii) 218,750 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future).

(4) Consists of (i) 1,350,000 shares of our common stock, (ii) 291,875 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future) and (iii) 680,283 shares of common stock and 415,625 shares of our Series A Convertible Preferred Stock beneficially owned by J&A Group, LLC, a Florida limited liability company of which James T. Treace and his spouse are the managing members.

(5) Consists of (i) 746,590 shares of our common stock, (ii) 510,625 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future) and (iii) 300,000 shares of our common stock owned by Mr. Mott's three children for which Mr. Mott has voting and dispositive power.

(6) Consists of (i) 983,153 shares of our common stock and (ii) 301,875 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future).

(7) Consists of (i) 350,813 shares of our common stock, (ii) 93,750 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future) and (iii) 405,876 shares of our common stock that may be acquired pursuant to the exercise of stock options within 60 days of March 1, 2021.

(8) Consists of (i) 423,604 shares of our common stock and (ii) 62,500 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future).

(9) Consists of (i) 250,000 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future) and (ii) 11,856 shares of our common stock that may be acquired pursuant to the exercise of stock options within 60 days of March 1, 2021.

(10) Consists of 11,856 shares of our common stock that may be acquired pursuant to the exercise of stock options within 60 days of March 1, 2021.
(11) Includes (i) 62,500 shares of our Series A convertible preferred stock (which amount does not include any accrued but unpaid dividends that may be paid in kind as common stock in the future) and (ii) 1,904,089 shares of our common stock that may be acquired pursuant to the exercise of stock options within 60 days of March 1, 2021.

DESCRIPTION OF CAPITAL STOCK

The following summary describes our capital stock and the material provisions of our amended and restated certificate of incorporation and our amended and restated bylaws, which will become effective immediately prior to the completion of this offering and of the Delaware General Corporation Law. Because the following is only a summary, it does not contain all of the information that may be important to you. For a complete description, you should refer to our amended and restated certificate of incorporation, amended and restated bylaws, copies of which have been filed as exhibits to the prospectus of which this prospectus is part.

General

Upon the completion of this offering and the filing of our amended and restated certificate of incorporation, our authorized capital stock will consist of shares of common stock, par value $0.001 per share, and shares of preferred stock, par value $0.001 per share. As of December 31, 2020, there were outstanding shares of common stock, on an as-converted basis, held of record by stockholders. In addition, shares of our common stock were issuable upon exercise of outstanding options granted under the 2014 Stock Plan. No shares of preferred stock will be issued or outstanding immediately after the offering contemplated by this prospectus. Unless our board of directors determines otherwise, we will issue all shares of our capital stock in uncertificated form.

Common Stock

Voting Rights

Each holder of our common stock is entitled to one vote for each share on all matters submitted to a vote of the stockholders, including the election of directors. Our stockholders do not have cumulative voting rights in the election of directors. Accordingly, holders of a majority of the voting shares are able to elect all of the directors.

Dividends

Subject to preferences that may be applicable to any then outstanding preferred stock, holders of our common stock are entitled to receive dividends, if any, as may be declared from time to time by our board of directors out of legally available funds.

Liquidation

In the event of our liquidation, dissolution or winding up, holders of our common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then outstanding shares of convertible preferred stock.

Rights, Preferences and Privileges

Holders of our common stock have no preemptive, conversion, subscription or other rights, and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of the holders of our common stock are subject to and may be adversely affected by the rights of the holders of shares of any series of our preferred stock that we may designate and issue in the future.

Fully Paid and Nonassessable

All of our outstanding shares of common stock are, and the shares of common stock to be issued in this offering will be, fully paid and nonassessable.

Preferred Stock

Immediately before the completion of this offering, all outstanding shares of our Series A convertible preferred stock will be converted into shares of our common stock. Upon the completion of this offering, our board of directors will have the authority, without further action by our stockholders, to issue up to million shares of preferred stock in one or more series and to fix the rights, preferences, privileges and restrictions thereof. These rights, preferences and privileges could include dividend rights, conversion rights, voting rights, rights and terms of redemption, liquidation preferences, sinking fund provisions and the number of shares constituting, or the designation of, such series, any or all of which may be greater than the rights of common stock. The issuance of our preferred stock could adversely affect the voting power of holders of common stock and the likelihood that such holders will receive dividend payments and payments upon our liquidation. The purpose of authorizing our board of directors to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of our outstanding voting stock. Immediately after completion of this offering, no shares of preferred stock will be outstanding, and we have no present plan to issue any shares of preferred stock.

Options

As of December 31, 2020, we had outstanding options to purchase an aggregate of 6,042,544 shares of our common stock, with a weighted-average exercise price of $2.43 per share. For additional information regarding terms of our equity incentive plans, see the section titled “Executive and Director Compensation—Equity Compensation Plans.”

Warrants

The following table sets forth information about outstanding warrants to purchase shares of our stock as of December 31, 2020.

The warrants to purchase shares of our common stock will expire upon the earlier of the expiration date set forth in each warrant, which is December 29, 2029, our acquisition, a sale of all or substantially all our assets, or any sale or other transfer by our stockholders of shares representing at least a majority of our then-total outstanding combined voting power.

Class of Stock Underlying Warrants	Number of Shares of Stock Exercisable Prior to this Offering	Number of Shares of Common Stock Underlying Warrants on an As-Converted Basis	Exercise Price Per Share Prior to this Offering	Exercise Price Per Share on an As-Converted Basis
Common stock, par value $0.001			$	$

Dividends

The DGCL permits a corporation to declare and pay dividends out of “surplus” or, if there is no “surplus,” out of its net profits for the fiscal year in which the dividend is declared and/or the preceding fiscal year. “Surplus” is defined as the excess of the net assets of the corporation over the amount determined to be the capital of the corporation by the board of directors. The capital of the corporation is typically calculated to be (and cannot be less than) the aggregate par value of all issued shares of capital stock. Net assets equal the fair value of the total assets minus total liabilities. The DGCL also provides that dividends may not be paid out of net profits if, after the payment of the dividend, remaining capital would be less than the capital represented by the outstanding stock of all classes having a preference upon the distribution of assets.

The declaration, amount and payment of any future dividends will be at the sole discretion of our board of directors. Our board of directors may take into account general and economic conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions and implications on the payment of dividends by us to our stockholders, including restrictions under any existing credit facilities and other indebtedness we may incur, and such other factors as our board of directors may deem relevant.

We currently expect to retain all future earnings for use in the operation and expansion of our business and have no current plans to pay dividends.

Annual Stockholder Meetings

Our amended and restated bylaws will provide that annual stockholder meetings will be held at a date, time and place, if any, as exclusively selected by our board of directors, our Chief Executive Officer or the chairman of the board of directors. To the extent permitted under applicable law, we may conduct meetings by remote communications, including by webcast.

Anti-Takeover Effects or Provisions of our Amended and Restated Certificate of Incorporation, our Amended and Restated Bylaws and Delaware Law

Some provisions of Delaware law and our amended and restated certificate of incorporation and our amended and restated bylaws that will be in effect before the completion of this offering contain provisions that could make the following transactions more difficult: acquisition of us by means of a tender offer; acquisition of us by means of a proxy contest or otherwise; or removal of our incumbent officers and directors. It is possible that these provisions could make it more difficult to accomplish or could deter transactions that stock holders may otherwise consider to be in their best interest or in our best interests, including transactions that might result in a premium over the market price for our shares.

These provisions, summarized below, are expected to discourage coercive takeover practices and inadequate takeover bids. These provisions are also designed to encourage persons seeking to acquire control of us to first negotiate with our board of directors. We believe that the benefits of increased protection of our potential ability to negotiate with the proponent of a non-friendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging these proposals because negotiation of these proposals could result in an improvement of their terms.

Delaware Anti-Takeover Statute

We are subject to Section 203 of the DGCL, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- Before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested holder;
- Prior to the completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- On or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines business combination to include the following:

- Any merger or consolidation involving the corporation and the interested stockholder;
- Any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- Subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- Any transaction involving the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- The receipt by the interested stockholder of the benefit of any loss, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines interested stockholder as an entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation or any entity or person affiliated with or controlling or controlled by such entity or person.

Undesignated Preferred Stock

The ability to authorize undesignated preferred stock makes it possible for our board of directors to issue preferred stock with voting or other rights or preferences that could impede the success of any attempt to acquire us. These and other provisions may have the effect of deterring hostile takeovers or delaying changes in control or management of our company.

Special Stockholder Meetings

Our amended and restated bylaws provides that a special meeting of stockholders may be called only by our board of directors, the chairperson of our board of directors, or our Chief Executive Officer or President. This provision might delay the ability of our stockholders to force consideration of a proposal or for stockholders controlling a majority of our capital stock to take any action, including the removal of directors.

Requirements for Advance Notification of Stockholder Nominations and Proposals

Our amended and restated bylaws establishes advance notice procedures with respect to stockholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors. Our amended and restated bylaws also specifies certain requirements regarding the form and content of a stockholder's notice.

Elimination of Stockholder Action by Written Consent

Our amended and restated certificate of incorporation and our amended and restated bylaws eliminates the right of stockholders to act by written consent without a meeting.

Classified Board; Election and Removal of Directors

Our amended and restated certificate of incorporation and amended and restated bylaws authorizes only our board of directors to fill vacant directorships, including newly created seats. In addition, the number of directors constituting our board of directors are permitted to be set only by a resolution adopted by our board of directors. These provisions prevent a stockholder from increasing the size of our board of directors and then gaining control of our board of directors by filling the resulting vacancies with its own nominees. This makes it more difficult to change the composition of our board of directors but promotes continuity of management.

Upon the completion of this offering, our board of directors will be divided into three classes. The directors in each class will serve for a three-year term, one class being elected each year by our stockholders, with staggered three-year terms. Only one class of directors will be elected at each annual meeting of our stockholders, with the other classes continuing for the remainder of their respective three-year terms. Because our stockholders do not have cumulative voting rights, our stockholders holding a majority of the shares of common stock outstanding will be able to elect all of our directors up for election. In addition, our amended and restated certificate of incorporation provides that directors may only be removed for cause. For more information on the classified board, see the section titled "Management—Board of Directors." This system of electing and removing directors may tend to discourage a third party from making a tender offer or otherwise attempting to obtain control of us, because it generally makes it more difficult for stockholders to replace a majority of the directors.

Exclusive Forum

Our amended and restated certificate of incorporation and amended and restated bylaws will provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the DGCL, our amended and restated certificate of incorporation or our amended and restated bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. As a result, any action brought by any of our stockholders with regard to any of these matters will need to be filed in the Court of Chancery of the State of Delaware and cannot be filed in any other jurisdiction. Our amended and restated certificate of incorporation and amended and restated bylaws will also provide that the federal district courts of the Unites States will be the exclusive forum for the resolution of any complaint asserting a cause of action against any defendant arising under the Securities Act. Such provision is intended to benefit and may be enforced by us, our officers and directors, employees and agents, including the underwriters and ay other professional or entity who has prepared or certified any part of this prospectus. Although our amended and restated certificate of incorporation and amended and restated bylaws contain the choice of forum provision described above, it is possible that a court could find that such a provision is inapplicable for a particular claim or action or that such provision is unenforceable. The choice of forum provision requiring that the Court of Chancery of the State of Delaware be the exclusive forum for certain actions would not apply to suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction; and provided that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action may be brought in another state or federal court sitting in the State of Delaware.

If any action the subject matter of which is within the scope described above is filed in a court other than a court located within the State of Delaware (a Foreign Action), in the name of any stockholder, such stockholder shall be deemed to have consented to the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce the applicable provisions of our amended and restated certificate of incorporation and amended and restated bylaws and having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the Foreign Action as agent for such stockholder.

This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims or make such lawsuits more costly for stockholders, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder.

Amendment of Charter Provisions

The amendment of any of the above provisions, except for the provision making it possible for our board of directors to issue preferred stock, would require approval by holders of at least 66 2/3% of the voting power of our then outstanding voting stock.

The provisions of the DGCL, our amended and restated certificate of incorporation and our amended and restated bylaws may have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they may also inhibit temporary fluctuations in the market price of our common stock that often result from actual or rumored hostile takeover attempts. These provisions may also have the effect of preventing changes in our management. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests.

Limitations on Liability and Indemnification Matters

For a discussion of liability and indemnification, see the section titled “Management—Limitation on Liability and Indemnification Matters.”

Exchange Listing

We have applied to list our common stock on the Nasdaq Global Market under the symbol “TMCI.”

Transfer Agent

The transfer agent for our common stock will be American Stock Transfer & Trust Company, LLC. The transfer agent’s address is 6201 15th Avenue, Brooklyn, NY 11219. Our shares of common stock will be issued in uncertificated form only, subject to limited exceptions.

SHARES ELIGIBLE FOR FUTURE RESALE

Before the completion of this offering, there has been no public market for our common stock, and we cannot predict the effect, if any, that market sales of shares of our common stock or the availability of shares of our common stock for sale will have on the market price of our common stock prevailing from time to time. Future sales of our common stock in the public market, or the perception that those sales may occur, could cause the prevailing market price for our common stock to fall or impair our ability to raise equity capital in the future. As described below, only a limited number of shares will be available for sale for a period of several months after consummation of this offering due to contractual and legal restrictions on resale as described below. Nevertheless, sales of our common stock in the public market either before (to the extent permitted) or after such restrictions lapse, or the perception that those sales may occur, could adversely affect the prevailing market price at such time and our ability to raise equity capital in the future.

Sale of Restricted Shares

Based on the number of shares of our common stock outstanding as of December 31, 2020 and assuming an initial public offering price of $ per share, the midpoint of the price range set forth on the cover page of this prospectus, upon the consummation of this offering and assuming the automatic conversion of all of our outstanding shares of Series A convertible preferred stock, we will have outstanding an aggregate of approximately shares of our common stock. Of these outstanding shares, all the shares of common stock to be sold in this offering, and any shares sold upon exercise of the underwriters' option to purchase additional shares, will be freely tradable in the public market without restriction or further registration under the Securities Act, unless the shares are held by any of our "affiliates" as such term is defined in Rule 144 of the Securities Act.

The remaining outstanding shares of our common stock will be deemed "restricted securities" as defined in Rule 144. Restricted securities may be sold in the public market only if they are registered or if they qualify for an exemption from registration under Rule 144 or Rule 701 under the Securities Act, which rules are summarized below. In addition, holders of all or substantially all of our equity securities have entered into or will enter into lock-up agreements with the underwriters under which they have agreed, subject to specific exceptions, not to sell any of our stock for at least 180 days following the date of this prospectus, as described below.

As a result of these agreements, based on the number of shares of our capital stock outstanding as of December 31, 2020, subject to the provisions of Rule 144 or Rule 701, these restricted securities will be available for sale in the public market as follows:

- beginning on the date of this prospectus, all shares of common stock sold in this offering will be immediately available for sale in the public market; and
- beginning 181 days after the date of this prospectus, additional shares of common stock will become eligible for sale in the public market, of which shares will be held by affiliates and will be subject to the volume and other restrictions of Rule 144, as described below.

Lock-Up Agreements

Our executive officers, directors, the selling stockholders and substantially all of our securityholders, including the selling stockholders, have entered into lock-up agreements with the underwriters of this offering under which they have agreed that, among other things and subject to certain exceptions, without the prior written consent of J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC, they will not dispose of or hedge any shares or any securities convertible into or exchangeable for shares of common stock for a period of 180 days from the date of this prospectus. See the section titled "Underwriting" for additional information. J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC, may, in their discretion, release any of the securities subject to these lock-up agreements at any time without notice. Following the expiration of the lock-up period, and

assuming that the representatives of the underwriters do not release any parties from these agreements, all of the shares of our common stock that are restricted securities or are held by our affiliates as of the date of this prospectus will be eligible for sale in the public market subject to the limitations of Rule 144 under the Securities Act.

Prior to the completion of the offering, certain of our employees, including our executive officers, and/or directors may enter into written trading plans that are intended to comply with Rule 10b5-1 under the Exchange Act. Sales under these trading plans would not be permitted until the expiration of the lock-up agreements relating to the offering described above.

Following the lock-up periods set forth in the agreements described above, and assuming that the representatives of the underwriters do not release any parties from these agreements, all of the shares of our common stock that are restricted securities or are held by our affiliates as of the date of this prospectus will be eligible for sale in the public market in compliance with Rule 144 under the Securities Act.

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to the public company reporting requirements of Section 13 or Section 15(d) of the Exchange Act for at least 90 days, a person who is not deemed to have been one of our affiliates for purposes of the Securities Act at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least six months, including the holding period of any prior owner other than our affiliates, is entitled to sell those shares without complying with the manner of sale, volume limitation or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of any prior owner other than our affiliates, then that person would be entitled to sell those shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, and upon expiration of the lock-up agreements described above, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell within any three-month period, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering, assuming no exercise by the underwriters' option to purchase additional shares; or
- the average weekly trading volume of our common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to that sale;

provided, in each case, that we have been subject to the Exchange Act periodic reporting requirements for at least 90 days before the sale. Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

Rule 701 generally allows a stockholder who purchased shares of our common stock under a written compensatory plan or contract and who is not deemed to have been an affiliate of our company during the immediately preceding 90 days to sell these shares in reliance upon Rule 144, but without being required to comply with the public information, holding period, volume limitation or notice provisions of Rule 144. Rule 701 also permits affiliates of our company to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. All holders of Rule 701 shares, however, are required by that rule to wait until 90 days after the date of this prospectus before selling those shares under Rule 701.

Stock and Option Plans

Following the completion of this offering, we intend to file a registration statement on Form S-8 under the Securities Act to register shares of our common stock issued or reserved for issuance under our 2014 Stock Plan and 2021 Incentive Award Plan (collectively, the Plans). The registration statement on Form S-8 will become effective immediately upon filing, and shares covered by such registration statement will thereupon be eligible for sale in the public markets, subject to vesting restrictions, the lock-up agreements described above and Rule 144 limitations applicable to affiliates. See the section titled “Executive Compensation—Equity Compensation Plans” for additional information.

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

The following discussion is a summary of the material U.S. federal income tax consequences to Non-U.S. Holders (as defined below) of the purchase, ownership and disposition of our common stock issued pursuant to this offering, but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local or non-U.S. tax laws are not discussed. This discussion is based on the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the IRS, in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a Non-U.S. Holder. We have not sought and will not seek any rulings from the Internal Revenue Service (IRS) regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the purchase, ownership and disposition of our common stock.

This discussion is limited to Non-U.S. Holders that hold our common stock as a "capital asset" within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a Non-U.S. Holder's particular circumstances, including the impact of the Medicare contribution tax on net investment income and the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including, without limitation:

- U.S. expatriates and former citizens or long-term residents of the United States;
- persons holding our common stock as part of a hedge, straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- brokers, dealers or traders in securities;
- "controlled foreign corporations," "passive foreign investment companies" and corporations that accumulate earnings to avoid U.S. federal income tax;
- partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our common stock under the constructive sale provisions of the Internal Revenue Code;
- persons who hold or receive our common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- "qualified foreign pension funds" as defined in Section 897(l)(2) of the Internal Revenue Code and entities all of the interests of which are held by qualified foreign pension funds.

If an entity treated as a partnership for U.S. federal income tax purposes holds our common stock, the tax treatment of a partner in the partnership will depend on the status of the partner, the activities of the partnership and certain determinations made at the partner level. Accordingly, partnerships holding our common stock and the partners in such partnerships should consult their tax advisors regarding the U.S. federal income tax consequences to them.

THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION

OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF OUR COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Definition of a Non-U.S. Holder

For purposes of this discussion, a "Non-U.S. Holder" is any beneficial owner of our common stock that is neither a "U.S. person" nor an entity treated as a partnership for U.S. federal income tax purposes. A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation created or organized under the laws of the United States, any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (i) is subject to the primary supervision of a U.S. court and all substantial decisions of which are subject to the control of one or more "United States persons" (within the meaning of Section 7701(a)(30) of the Code), or (ii) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

Distributions

As described in the section titled "Dividend Policy," we have never declared or paid, and do not anticipate declaring or paying, cash dividends on our common stock. We do not anticipate paying any dividends in the foreseeable future. However, if we do make distributions of cash or property on our common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute a return of capital and first be applied against and reduce a Non-U.S. Holder's adjusted tax basis in its common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described under the subsection titled "—Sale or Other Taxable Disposition" below.

Subject to the discussion below regarding effectively connected income, dividends paid to a Non-U.S. Holder will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty, provided the Non-U.S. Holder furnishes a valid IRS Form W-8BEN or W-8BEN-E (or other applicable documentation) certifying qualification for the lower treaty rate). A Non-U.S. Holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable tax treaties.

If dividends paid to a Non-U.S. Holder are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such dividends are attributable), the Non-U.S. Holder will be exempt from the U.S. federal withholding tax described above. To claim the exemption, the Non-U.S. Holder must furnish to the applicable withholding agent a valid IRS Form W-8ECI, certifying that the dividends are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States.

Any such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the regular rates. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected dividends, as adjusted for certain items. Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

Sale or Other Taxable Disposition

A Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other taxable disposition of our common stock unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such gain is attributable);
- the Non-U.S. Holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our common stock constitutes a U.S. real property interest (USRPI) by reason of our status as a U.S. real property holding corporation (USRPHC) for U.S. federal income tax purposes.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the regular rates applicable to U.S. persons. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected gain, as adjusted for certain items.

A Non-U.S. Holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on gain realized upon the sale or other taxable disposition of our common stock, which may be offset by certain U.S. source capital losses of the Non-U.S. Holder (even though the individual is not considered a resident of the United States), provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we currently are not, and do not anticipate becoming, a USRPHC. Because the determination of whether we are a USRPHC depends, however, on the fair market value of our USRPIs relative to the fair market value of our non-U.S. real property interests and our other business assets, there can be no assurance we currently are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition of our common stock by a Non-U.S. Holder will not be subject to U.S. federal income tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market, and such Non-U.S. Holder owned, actually and constructively, 5% or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or other taxable disposition or the Non-U.S. Holder's holding period.

Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

Information Reporting and Backup Withholding

Payments of dividends on our common stock will not be subject to backup withholding, provided the Non-U.S. Holder certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN, W-8BEN-E or W-8ECI, or otherwise establishes an exemption. However, information returns are required to be filed with the IRS in connection with any distributions on our common stock paid to the Non-U.S. Holder, regardless of whether such distributions constitute dividends or whether any tax was actually withheld. In addition, proceeds of the sale or other taxable disposition of our common stock within the United States or conducted through certain U.S.-related brokers generally will not be subject to backup withholding or information reporting if the applicable withholding agent receives the certification described above or the Non-U.S. Holder otherwise establishes an exemption. Proceeds of a disposition of our common stock conducted through a non-U.S. office of a non-U.S. broker that does not have certain enumerated relationships with the United States generally will not be subject to backup withholding or information reporting.

Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Additional Withholding Tax on Payments Made to Foreign Accounts

Withholding taxes may be imposed under Sections 1471 to 1474 of the Code (such Sections commonly referred to as the Foreign Account Tax Compliance Act (FATCA)) on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or (subject to the proposed Treasury Regulations discussed below) gross proceeds from the sale or other disposition of, our common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (i) the foreign financial institution undertakes certain diligence and reporting obligations, (ii) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (i) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally applies to payments of dividends on our common stock. While withholding under FATCA would have applied also to payments of gross proceeds from the sale or other disposition of our common stock beginning on January 1, 2019, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our common stock.

UNDERWRITING

We and the selling stockholders are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC are acting as joint book-running managers of the offering and as representatives of the underwriters. We and the selling stockholders have entered into an underwriting agreement with the representatives. Subject to the terms and conditions of the underwriting agreement, we and the selling stockholders have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
Morgan Stanley & Co. LLC	
SVB Leerink LLC	
Stifel, Nicolaus & Company, Incorporated	
Total	

The underwriters are committed to purchase all the shares of common stock offered by us and the selling stockholders if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the common stock directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. After the initial offering of the shares to the public, if all of the shares of common stock are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms. Sales of any shares made outside of the United States may be made by affiliates of the underwriters.

The underwriters have an option to buy up to additional shares of common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us per share of common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions to be paid by us and the selling stockholders to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares from us.

	Paid by the Company without Option to Purchase Additional Shares Exercise	Paid by the Company with Full Option to Purchase Additional Shares Exercise	Paid by the Selling Stockholders
Per Share	$	$	$
Total	$	$	$

We estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be

approximately $ million. We have also agreed to reimburse the underwriters for expenses relating to the clearance of this offering with the Financial Industry Regulatory Authority, Inc. in an amount up to $.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

We have agreed that we will not, subject to certain exceptions, (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, hedge, lend, or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with the Securities and Exchange Commission a registration statement under the Securities Act relating to, any shares of our common stock or securities convertible into or exercisable or exchangeable for any shares of our common stock, or publicly disclose the intention to make any offer, sale, pledge, hedge, loan, disposition or filing, or (ii) enter into any swap, hedging, or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any shares of common stock or any such other securities (regardless of whether any of these transactions are to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise), in each case without the prior written consent of J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC for a period of 180 days after the date of this prospectus, other than the shares of our common stock to be sold in this offering.

The restrictions on our actions, as described above, do not apply to certain transactions, including (i) the issuance of shares of common stock or securities convertible into or exercisable for shares of common stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the settlement of RSUs (including net settlement), in each case outstanding on the date of the underwriting agreement and described in this prospectus; (ii) grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of our common stock or securities convertible into or exercisable or exchangeable for shares of our common stock (whether upon the exercise of stock options or otherwise) to our employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the closing of this offering and described in this prospectus, provided that such recipients enter into a lock-up agreement with the underwriters; (iii) the issuance of up to 5% of the outstanding shares of our common stock, or securities convertible into, exercisable for, or which are otherwise exchangeable for, our common stock, immediately following the closing of this offering, in acquisitions or other similar strategic transactions, provided that such recipients enter into a lockup agreement with the underwriters; or (iv) our filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of the underwriting agreement and described in this prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction.

Our directors and executive officers, the selling stockholders and substantially all of our securityholders (such persons, the “lock-up parties”) have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each lock-up party, with limited exceptions, for a period of 180 days after the date of this prospectus (such period, the “restricted period”), may not and may not cause any of their direct or indirect affiliates to, without the prior written consent of J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC, (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for our common stock (including, without limitation, common stock or such other securities which may be deemed to be beneficially owned by such lock-up parties in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant) (collectively with the common stock, the “lock-up securities”), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the lock-up securities, whether

any such transaction described in clause (1) or (2) above is to be settled by delivery of lock-up securities, in cash or otherwise, (3) make any demand for or exercise any right with respect to the registration of any lock-up securities, or (4) publicly disclose the intention to do any of the foregoing. Such persons or entities have further acknowledged that these undertakings preclude them from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (by any person or entity, whether or not a signatory to such agreement) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any lock-up securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of lock-up securities, in cash or otherwise.

The restrictions described in the immediately preceding paragraph and contained in the lock-up agreements between the underwriters and the lock-up parties do not apply, subject in certain cases to various conditions, to certain transactions, including:

(a) the transfer, distribution, disposition or surrender (as the case may be) of, the lock-up party's lock-up securities:

(i) as a bona fide gift or gifts, or for bona fide estate planning purposes,

(ii) by will, testamentary document or intestacy,

(iii) (1) to any trust for the direct or indirect benefit of the lock-up party or the immediate family of the lock-up party, or if the lock-up party is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust (for purposes of the lock-up agreements, "immediate family" shall mean any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin) or (2) to any immediate family member,

(iv) to a corporation, partnership, limited liability company or other entity of which the lock-up party and its immediate family are the legal and beneficial owner of all of the outstanding equity securities or similar interests,

(v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iv) above,

(vi) if the lock-up party is a corporation, partnership, limited liability company, trust or other business entity, (1) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate of the lock-up party, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the lock-up party or its affiliates (including, for the avoidance of doubt, where the lock-up party is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (2) as part of a distribution to partners, members or shareholders of the lock-up party,

(vii) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement, provided that such transferee shall execute and deliver to the representatives a lock-up letter in the form of the lock-up agreements described herein,

(viii) to us from an employee upon death, disability or termination of employment, in each case, of such employee,

(ix) as part of a sale of lock-up securities acquired in open market transactions after the completion of this offering,

(x) to us (1) pursuant to a right of first refusal described herein with respect to transfers of lock-up securities and (2) in connection with the vesting, settlement, or exercise of restricted stock units,

options, warrants or other rights to purchase shares of our common stock (including, in each case, by way of "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, settlement, or exercise of such restricted stock units, options, warrants or rights, provided that any such shares of our common stock received upon such exercise, vesting or settlement shall be subject to the terms of the lock-up agreements, and provided further that any such restricted stock units, options, warrants or rights are held by the lock-up party pursuant to an agreement or equity awards granted under a stock incentive plan or other equity award plan, each such agreement or plan which is described herein, or

(xi) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by our board of directors and made to all of our shareholders involving a change of control; provided that in the event that such transaction is not completed, all such lock-up securities shall remain subject to the restrictions in the immediately preceding paragraph;

provided that (A) in the case of any transfer or distribution pursuant to clause (a)(i), (ii), (iii), (iv), (v) and (vi), such transfer shall not involve a disposition for value and each donee, devisee, transferee or distributee shall execute and deliver to the representatives a lock-up letter in the form of the lock-up agreements described herein, (B) in the case of any transfer or distribution pursuant to clause (a) (i), (ii), (iii), (iv), (v), (vi) and (ix), no filing by any party (donor, donee, devisee, transferor, transferee, distributer or distributee) under Section 16 of the Exchange Act, or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution (other than a filing on a Form 5 made after the expiration of the restricted period referred to above) and (C) in the case of any transfer or distribution pursuant to clause (a)(vii), (viii) and (x) it shall be a condition to such transfer that no public filing, report or announcement shall be voluntarily made and if any filing under Section 16(a) of the Exchange Act, or other public filing, report or announcement reporting a reduction in beneficial ownership of shares of our common stock in connection with such transfer or distribution shall be legally required during the restricted period, such filing, report or announcement shall clearly indicate in the footnotes thereto the nature and conditions of such transfer;

(b) exercise of the outstanding options, settlement of restricted stock units or other equity awards or the exercise of warrants granted pursuant to plans described in this prospectus; provided that any lock-up securities received upon such exercise, vesting or settlement would be subject to restrictions similar to those in the immediately preceding paragraph;

(c) the conversion of outstanding preferred stock, warrants to acquire preferred stock or convertible securities into shares of our common stock or warrants to acquire shares of our common stock; provided that any such shares of common stock or warrants received upon such conversion would be subject to restrictions similar to those in the immediately preceding paragraph;

(d) the establishment by lock-up parties of trading plans under Rule 10b5-1 under the Exchange Act; provided that (i) such plans do not provide for the transfer of lock-up securities during the restricted period and (ii) no filing by any party under Section 16 of the Exchange Act or other public announcement shall be required or made voluntarily in connection with such trading plan; and

(e) the sale of the securities by the lock-up party pursuant to the terms of the underwriting agreement.

J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC, in their sole discretion, may release the securities subject to any of the lock-up agreements with the underwriters described above, in whole or in part at any time.

We and the selling stockholders have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act.

We have applied to list our common stock on the Nasdaq Global Market under the symbol "TMCI".

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' option to purchase additional shares referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the Nasdaq Global Stock Market, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for shares of our common stock, or that the shares will trade in the public market at or above the initial public offering price.

Directed Share Program

At our request, the underwriters have reserved up to % of the shares offered by this prospectus for sale at the initial public offering price to certain individuals through a directed share program, including our directors,

officers and certain other individuals identified by our officers or management. The sales will be made at our direction by J.P. Morgan Securities LLC and its affiliates through a directed share program. The number of shares of our common stock available for sale to the general public in this offering will be reduced to the extent that such persons purchase such reserved shares. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares of common stock offered by this prospectus. We have agreed to indemnify the underwriters against certain liabilities and expenses, including liabilities under the Securities Act, in connection with the sales of the shares reserved for the directed share program.

Other Relationships

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates, and the selling stockholders, and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates, and such selling stockholders, in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future. For example, certain of the underwriters or their respective affiliates serve as lenders under our term loan agreements. In addition, certain of the underwriters or their respective affiliates also served as lenders under our PPP Loan, which was repaid in March 2021.

Selling Restrictions

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area (each a "Relevant State"), no shares have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that the shares may be offered to the public in that Relevant State at any time:

(i) to any legal entity which is a qualified investor as defined under Article 2 of the Prospectus Regulation;

(ii) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or

(iii) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares shall require us or any of the representatives to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an "offer to the public" in relation to shares in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares, and the expression "Prospectus Regulation" means Regulation (EU) 2017/1129.

Notice to Prospective Investors in the United Kingdom

No shares have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the shares which has been approved by the Financial Conduct Authority, except that the shares may be offered to the public in the United Kingdom at any time:

(i) to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;

(ii) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of the representatives for any such offer; or

(iii) in any other circumstances falling within Section 86 of the FSMA,

provided that no such offer of the shares shall require the Issuer or any Manager to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation. For the purposes of this provision, the expression an "offer to the public" in relation to the shares in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares and the expression "UK Prospectus Regulation" means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

Notice to Prospective Investors in Canada

The shares may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the shares must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to Prospective Investors in Switzerland

The shares may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange (SIX) or on any other stock exchange or regulated trading facility in Switzerland. This document does not constitute a prospectus within the meaning of, and has been prepared without regard to the disclosure standards

for issuance prospectuses under art. 652a or art. 1156 of the Swiss Code of Obligations or the disclosure standards for listing prospectuses under art. 27 ff. of the SIX Listing Rules or the listing rules of any other stock exchange or regulated trading facility in Switzerland. Neither this document nor any other offering or marketing material relating to the shares or the offering may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this document nor any other offering or marketing material relating to the offering, the company, the shares have been or will be filed with or approved by any Swiss regulatory authority. In particular, this document will not be filed with, and the offer of shares will not be supervised by, the Swiss Financial Market Supervisory Authority FINMA (FINMA), and the offer of shares has not been and will not be authorized under the Swiss Federal Act on Collective Investment Schemes (CISA). The investor protection afforded to acquirers of interests in collective investment schemes under the CISA does not extend to acquirers of shares.

Notice to Prospective Investors in the Dubai International Financial Centre

This document relates to an Exempt Offer in accordance with the Markets Rules 2012 of the Dubai Financial Services Authority (DFSA). This document is intended for distribution only to persons of a type specified in the Markets Rules 2012 of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus supplement nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this document you should consult an authorized financial advisor.

In relation to its use in the DIFC, this document is strictly private and confidential and is being distributed to a limited number of investors and must not be provided to any person other than the original recipient, and may not be reproduced or used for any other purpose. The interests in the securities may not be offered or sold directly or indirectly to the public in the DIFC.

Notice to Prospective Investors in the United Arab Emirates

The shares have not been, and are not being, publicly offered, sold, promoted or advertised in the United Arab Emirates (including the Dubai International Financial Centre) other than in compliance with the laws of the United Arab Emirates (and the Dubai International Financial Centre) governing the issue, offering and sale of securities. Further, this prospectus does not constitute a public offer of securities in the United Arab Emirates (including the Dubai International Financial Centre) and is not intended to be a public offer. This prospectus has not been approved by or filed with the Central Bank of the United Arab Emirates, the Securities and Commodities Authority or the Dubai Financial Services Authority.

Notice to Prospective Investors in Australia

This prospectus:

- does not constitute a disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth) (the Corporations Act);
- has not been, and will not be, lodged with the Australian Securities and Investments Commission (ASIC), as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document for the purposes of the Corporations Act; and
- may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, available under section 708 of the Corporations Act (Exempt Investors).

The shares may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any shares may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares you undertake to us that you will not, for a period of 12 months from the date of issue of the shares, offer, transfer, assign or otherwise alienate those shares to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

Notice to Prospective Investors in Japan

The shares have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Act. Accordingly, none of the shares nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any "resident" of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to or for the benefit of a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan in effect at the relevant time.

Notice to Prospective Investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (i) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong), or the SFO, of Hong Kong and any rules made thereunder; or (ii) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, or the CO, or which do not constitute an offer to the public within the meaning of the CO. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the SFO and any rules made thereunder.

Notice to Prospective Investors in Singapore

Each representative has acknowledged that this prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, each representative has represented and agreed that it has not offered or sold any shares or caused the shares to be made the subject of an invitation for subscription or purchase and will not offer or sell any shares or cause the shares to be made the subject of an invitation for subscription or purchase, and has not circulated or distributed, nor will it circulate or distribute, this prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares, whether directly or indirectly, to any person in Singapore other than:

(i) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time, or the SFA) pursuant to Section 274 of the SFA;

(ii) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA; or

(iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

(i) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or

(ii) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:

(a) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(i)(B) of the SFA;

(b) where no consideration is or will be given for the transfer;

(c) where the transfer is by operation of law;

(d) as specified in Section 276(7) of the SFA; or

(e) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Singapore SFA Product Classification—In connection with Section 309B of the SFA and the CMP Regulations 2018, unless otherwise specified before an offer of the shares, the company has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the shares are "prescribed capital markets products" (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

Notice to Prospective Investors in Bermuda

Shares may be offered or sold in Bermuda only in compliance with the provisions of the Investment Business Act of 2003 of Bermuda which regulates the sale of securities in Bermuda. Additionally, non-Bermudian persons (including companies) may not carry on or engage in any trade or business in Bermuda unless such persons are permitted to do so under applicable Bermuda legislation.

Notice to Prospective Investors in Saudi Arabia

This document may not be distributed in the Kingdom of Saudi Arabia except to such persons as are permitted under the Offers of Securities Regulations as issued by the board of the Saudi Arabian Capital Market Authority, or CMA, pursuant to resolution number 2-11-2004 dated 4 October 2004 as amended by resolution number 1-28-2008, as amended. The CMA does not make any representation as to the accuracy or completeness of this document and expressly disclaims any liability whatsoever for any loss arising from, or incurred in reliance upon, any part of this document. Prospective purchasers of the securities offered hereby should conduct their own due diligence on the accuracy of the information relating to the securities. If you do not understand the contents of this document, you should consult an authorized financial adviser.

Notice to Prospective Investors in the British Virgin Islands

The shares are not being, and may not be offered to the public or to any person in the British Virgin Islands for purchase or subscription by or on behalf of the company. The shares may be offered to companies incorporated under the BVI Business Companies Act, 2004 (British Virgin Islands), or BVI Companies, but only where the offer will be made to, and received by, the relevant BVI Company entirely outside of the British Virgin Islands.

Notice to Prospective Investors in China

This prospectus will not be circulated or distributed in the PRC and the shares will not be offered or sold, and will not be offered or sold to any person for re-offering or resale directly or indirectly to any residents of the PRC except pursuant to any applicable laws and regulations of the PRC. Neither this prospectus nor any advertisement or other offering material may be distributed or published in the PRC, except under circumstances that will result in compliance with applicable laws and regulations.

Notice to Prospective Investors in Korea

The shares have not been and will not be registered under the Financial Investments Services and Capital Markets Act of Korea and the decrees and regulations thereunder, or the FSCMA, and the shares have been and will be offered in Korea as a private placement under the FSCMA. None of the shares may be offered, sold or delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the FSCMA and the Foreign Exchange Transaction Law of Korea and the decrees and regulations thereunder, or the FETL. The shares have not been listed on any of the securities exchanges in the world including, without limitation, the Korea Exchange in Korea. Furthermore, the purchaser of the shares shall comply with all applicable regulatory requirements (including but not limited to requirements under the FETL) in connection with the purchase of the shares. By the purchase of the shares, the relevant holder thereof will be deemed to represent and warrant that if it is in Korea or is a resident of Korea, it purchased the shares pursuant to the applicable laws and regulations of Korea.

Notice to Prospective Investors in Malaysia

No prospectus or other offering material or document in connection with the offer and sale of the shares has been or will be registered with the Securities Commission of Malaysia, or Commission, for the Commission's approval pursuant to the Capital Markets and Services Act 2007. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Malaysia other than (i) a closed end fund approved by the Commission; (ii) a holder of a Capital Markets Services License; (iii) a person who acquires the shares, as principal, if the offer is on terms that the shares may only be acquired at a consideration of not less than RM250,000 (or its equivalent in foreign currencies) for each transaction; (iv) an individual whose total net personal assets or total net joint assets with his or her spouse exceeds RM3 million (or its equivalent in foreign currencies), excluding the value of the primary residence of the individual; (v) an individual who has a gross annual income exceeding RM300,000 (or its equivalent in foreign currencies) per annum in the preceding twelve months; (vi) an individual who, jointly with his or her spouse, has a gross annual income of RM400,000 (or its equivalent in foreign currencies), per annum in the preceding twelve months; (vii) a corporation with total net assets exceeding RM10 million (or its equivalent in a foreign currencies) based on the last audited accounts; (viii) a partnership with total net assets exceeding RM10 million (or its equivalent in foreign currencies); (ix) a bank licensee or insurance licensee as defined in the Labuan Financial Services and Securities Act 2010; (x) an Islamic bank licensee or takaful licensee as defined in the Labuan Financial Services and Securities Act 2010; and (xi) any other person as may be specified by the Commission; provided that, in the each of the preceding

categories (i) to (xi), the distribution of the shares is made by a holder of a Capital Markets Services License who carries on the business of dealing in securities. The distribution in Malaysia of this prospectus is subject to Malaysian laws. This prospectus does not constitute and may not be used for the purpose of public offering or an issue, offer for subscription or purchase, invitation to subscribe for or purchase any securities requiring the registration of a prospectus with the Commission under the Capital Markets and Services Act 2007.

Notice to Prospective Investors in Taiwan

The shares have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorized to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the shares in Taiwan.

Notice to Prospective Investors in South Africa

Due to restrictions under the securities laws of South Africa, no "*offer to the public*" (as such term is defined in the South African Companies Act, No. 71 of 2008 (as amended or re-enacted), or the South African Companies Act) is being made in connection with the issue of the shares in South Africa. Accordingly, this document does not, nor is it intended to, constitute a "*registered prospectus*" (as that term is defined in the South African Companies Act) prepared and registered under the South African Companies Act and has not been approved by, and/or filed with, the South African Companies and Intellectual Property Commission or any other regulatory authority in South Africa. The shares are not offered, and the offer shall not be transferred, sold, renounced or delivered, in South Africa or to a person with an address in South Africa, unless one or other of the following exemptions stipulated in section 96 (1) applies:

Section 96 (1) (a)	the offer, transfer, sale, renunciation or delivery is to: (i) persons whose ordinary business, or part of whose ordinary business, is to deal in securities, as principal or agent, (ii) the South African Public Investment Corporation, (iii) persons or entities regulated by the Reserve Bank of South Africa, (iv) authorised financial service providers under South African law, (v) financial institutions recognised as such under South African law, (vi) a wholly-owned subsidiary of any person or entity contemplated in (c), (d) or (e), acting as agent in the capacity of an authorized portfolio manager for a pension fund, or as manager for a collective investment scheme (in each case duly registered as such under South African law), or (vii) any combination of the person in (i) to (vi); or
Section 96 (1) (b)	the total contemplated acquisition cost of the securities, for any single addressee acting as principal is equal to or greater than ZAR1,000,000 or such higher amount as may be promulgated by notice in the Government Gazette of South Africa pursuant to section 96(2)(a) of the South African Companies Act.

Information made available in this prospectus should not be considered as "advice" as defined in the South African Financial Advisory and Intermediary Services Act, 2002.

LEGAL MATTERS

The validity of the issuance of our common stock offered in this prospectus will be passed upon for us by Latham & Watkins LLP, Menlo Park, California. Cooley LLP, San Diego, California, is acting as counsel for the underwriters in connection with this offering.

EXPERTS

The financial statements included in this registration statement have been so included in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the shares of our common stock offered hereby. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits and schedules filed therewith. For further information with respect to Treace Medical Concepts, Inc. and the common stock offered hereby, reference is made to the registration statement and the exhibits and schedules filed therewith. Statements contained in this prospectus regarding the contents of any contract or any other document that is filed as an exhibit to the registration statement are not necessarily complete, and each such statement is qualified in all respects by reference to the full text of such contract or other document filed as an exhibit to the registration statement. The SEC maintains a website that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC. The address is www.sec.gov.

You may read our SEC filings, including this registration statement, over the Internet at the SEC's website at www.sec.gov. Upon the completion of this offering, we will be subject to the information reporting requirements of the Exchange Act and we will file reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available for review at the SEC's website referred to above. We also maintain a website at www.treace.com, at which, following the completion of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on or accessible through our website is not a part of this prospectus or the registration statement of which it forms a part, and the inclusion of our website address in this prospectus is an inactive textual reference only.

Treace Medical Concepts, Inc.
INDEX TO FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Treace Medical Concepts, Inc.

Opinion on the financial statements

We have audited the accompanying balance sheets of Treace Medical Concepts, Inc. (a Delaware corporation) (the "Company") as of December 31, 2020 and 2019, the related statements of operations and comprehensive loss, stockholders' equity, and cash flows for the years ended December 31, 2020 and 2019, and the related notes to the financial statements (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, 2020 and 2019, and the results of its operations and its cash flows for the years ended December 31, 2020 and 2019, in conformity with accounting principles generally accepted in the United States of America.

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 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 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 financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits 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 include examining, on a test basis, evidence regarding the amounts and disclosures in the 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 financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2018.

Jacksonville, FL
March 30, 2021

TREACE MEDICAL CONCEPTS, INC.
Balance Sheets
(in thousands, except share and per share amounts)

	December 31, 2019	December 31, 2020
Assets		
Current assets		
Cash and cash equivalents	$ 12,139	$ 18,079
Accounts receivable, net of allowance for doubtful accounts of $249 and $446 as of December 31, 2019 and 2020, respectively	10,411	14,486
Inventories	5,562	7,820
Prepaid expenses and other current assets	458	594
Total current assets	28,570	40,978
Property and equipment, net	1,146	829
Total assets	$ 29,716	$ 41,807
Liabilities, and Stockholders' Equity		
Current liabilities		
Accounts payable	$ 931	$ 2,265
Accrued liabilities	1,294	1,848
Accrued commissions	2,572	3,513
Accrued compensation	2,535	2,183
Short-term debt	—	1,788
Total current liabilities	7,332	11,598
Derivative liability on term loan	—	245
Long-term debt, net of discount of $777 and $811 as of December 31, 2019 and 2020, respectively	19,223	29,189
Total liabilities	26,555	41,031
Commitments and contingencies (Note 7)	—	—
Stockholders' equity		
Series A preferred stock, $0.001 par value, 5,000,000 shares and 5,000,000 authorized, issued and outstanding as of December 31, 2019 and 2020, respectively; liquidation value of $8,000 and $8,000 as of December 31, 2019 and 2020, respectively	7,935	7,935
Common stock Series A, $0.001 par value, 50,000,000 shares and 50,000,000 shares authorized as of December 31, 2019 and 2020, respectively; 27,687,373 shares and 27,937,859 issued and outstanding as of December 31, 2019 and 2020, respectively	28	28
Common stock Series B, $0.001 par value, 1,000,000 shares and 1,000,000 shares authorized as of December 31, 2019 and 2020, respectively; no shares issued and outstanding as of December 31, 2019 and 2020	—	—
Additional paid-in capital	12,884	14,166
Accumulated deficit	(17,686)	(21,353)
Total stockholders' equity	3,161	776
Total liabilities, and stockholders' equity	$ 29,716	$ 41,807

The accompanying notes are an integral part of these financial statements

TREACE MEDICAL CONCEPTS, INC.
Statement of Operations and Comprehensive Loss
(in thousands, except share and per share amounts)

	Year Ended December 31,	
	2019	2020
Revenue	$ 39,416	$ 57,365
Cost of goods sold	7,631	12,470
Gross profit	31,785	44,895
Operating expenses:		
Sales and marketing	25,786	31,654
Research and development	5,070	5,847
General and administrative	4,464	6,539
Total operating expenses	35,320	44,040
(Loss) income from operations	(3,535)	855
Interest and other income (expense), net	111	(1,746)
Interest expense	(841)	(2,777)
Other income (expense), net	(730)	(4,523)
Net loss and comprehensive loss	(4,265)	(3,668)
Convertible preferred stock cumulative and undeclared dividends	(640)	(640)
Net loss attributable to common stockholders	$ (4,905)	$ (4,308)
Net loss per share attributable to common stockholders, basic and diluted	$ (0.18)	$ (0.16)
Weighted-average shares used in computing net loss per share attributable to common stockholders, basic and diluted	27,597,463	27,715,129

The accompanying notes are an integral part of these financial statements.

TREACE MEDICAL CONCEPTS, INC.
Statement of Stockholders' Equity
(in thousands, except share amounts)

	Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount				
Balances at January 1, 2019	5,000,000	$ 7,935	27,492,873	$ 27	$ 11,407	$ —	$ (13,421)	$ 5,948
Issuance of warrants for Class A common stock in connection with Credit Facility (Note 9)	—	—	—	—	595	—	—	595
Common stock issued upon exercise of stock options	—	—	194,500	1	67	—	—	68
Share-based compensation expense	—	—	—	—	815	—	—	815
Net loss attributable to common shareholders	—	—	—	—	—	—	(4,265)	(4,265)
Balances at December 31, 2019	5,000,000	$ 7,935	27,687,373	$ 28	$ 12,884	$ —	$ (17,686)	$ 3,161
Common stock issued upon exercise of stock options	—	—	250,486	—	364	—	—	364
Share-based compensation expense	—	—	—	—	919	—	—	919
Net loss attributable to common shareholders	—	—	—	—	—	—	(3,668)	(3,668)
Balances at December 31, 2020	5,000,000	$ 7,935	27,937,859	$ 28	$ 14,167	$ —	$ (21,353)	$ 776

The accompanying notes are an integral part of these financial statements.

TREACE MEDICAL CONCEPTS, INC.
Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2019	2020
Cash flows from operating activities		
Net loss attributable to common shareholders	$ (4,265)	$ (3,668)
Adjustments to reconcile net loss to net cash used in operating activities		
Depreciation and amortization expense	793	1,210
Allowance for doubtful accounts	145	216
Share-based compensation expense	815	919
Amortization of debt issuance costs	147	220
Impairment of capitalized surgical instruments	—	144
Provision for inventory obsolescence	—	1,144
Loss on early settlement of debt	—	639
Net changes in operating assets and liabilities:		
Accounts Receivable	(6,022)	(4,291)
Inventory	(2,813)	(3,402)
Prepaid expenses and other assets	(94)	(103)
Accounts payable	(236)	1,334
Accrued liabilities	3,857	1,143
Net cash used in operating activities	(7,673)	(4,494)
Cash flows from investing activities		
Purchases of property and equipment	(1,211)	(1,069)
Net cash used in investing activities	(1,211)	(1,069)
Cash flows from financing activities		
Proceeds from interest bearing debt	20,000	29,530
Payments on interest bearing debt	—	(20,000)
Proceeds from SBA Loan	—	1,788
Debt issuance costs	(329)	(179)
Proceeds from exercise of employee stock options	68	364
Net cash provided by financing activities	19,739	11,503
Net increase in cash and cash equivalents	10,855	5,940
Cash and cash equivalents at beginning of year	1,284	12,139
Cash and cash equivalents at end of year	$ 12,139	$ 18,079
Supplemental disclosure of cash flow information		
Cash paid for interest	739	1,146
Non-cash financing activities		
Issuance of warrants for Class A common stock in connection with the Company’s Credit Facility	594	—
Initial fair value of derivative liability	—	245

The accompanying notes are an integral part of these financial statements.

1. Formation and Business of the Company

The Company

Treace Medical Concepts, LLC was formed on July 29, 2013. Effective July 1, 2014, the entity converted to a C Corporation and changed its name to Treace Medical Concepts, Inc. (the "Company"). The Company is a commercial-stage orthopaedic medical device company driving a paradigm shift in the surgical treatment of *Hallux Valgus* (commonly known as bunions). The Company has pioneered the proprietary Lapiplasty 3D Bunion Correction System – a combination of novel instruments, implants and surgical methods designed to improve the inconsistent clinical outcomes of traditional approaches to bunion surgery. In addition, the Company offers other advanced instrumentation and implants for use in the Lapiplasty Procedure or other ancillary procedures performed in high frequency with bunion surgery. The Company operates from its corporate headquarters located in Ponte Vedra, Florida.

The Company received 510(k) clearance for the Lapiplasty System in March 2015 and began selling its surgical medical devices in September 2015.

Liquidity and Capital Resources

The Company has incurred operating losses to date and has an accumulated deficit of $21.4 million as of December 31, 2020. During the year ended December 31, 2020, the Company used $4.5 million of cash in its operating activities. As of December 31, 2020, the Company had cash and cash equivalents of $18.1 million. Additional financing, including the completion of the proposed initial public offering, will be required to sustain further growth of the Company's revenues and operations.

Coronavirus Pandemic

The Company's operations were impacted by the coronavirus ("COVID-19") pandemic in 2020. In response to COVID-19, certain states within the United States implemented shelter-in-place rules requiring certain businesses not deemed "essential" to close and requiring elective procedures to be delayed. The Company's revenue growth was adversely impacted, particularly by the restrictions on elective procedures, from March 2020 through May 2020, when such restrictions were largely eased. There is still uncertainty around the breadth and duration of business disruptions related to COVID-19, as well as its impact on the United States and international economies. While the Company has experienced revenue growth during the pandemic, the Company reduced its revenue growth forecast to reflect a lower number of surgical procedures.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying financial statements have been prepared using accounting principles generally accepted in the United States of America ("GAAP").

Use of Estimates

The preparation of financial statements in conformity with GAAP requires 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 financial statements and the reported amounts of revenues and expenses during the reporting periods. Although these estimates are based on the Company's knowledge of current events and actions it may undertake in the future, actual results may ultimately materially differ from these estimates and assumptions.

Significant estimates and assumptions include reserves and write-downs related to accounts receivable, inventories, the recoverability of long term assets, valuation of equity instruments, valuation of common stock, stock-based compensation, deferred tax assets and related valuation allowances and impact of contingencies.

Fair Value of Financial Instruments

The carrying amounts of the Company's financial instruments, including cash and cash equivalents, accounts receivable, accounts payable, and accrued liabilities, approximate their fair value due to the short-term nature of these assets and liabilities. Based on the borrowing rates currently available to the Company for debt with similar terms and consideration of default and credit risk, the carrying value of the term loans approximates their fair value (Note 4).

Segments

The Company operates and manages its business as one reportable and operating segment, which is the business of designing, manufacturing, and marketing medical devices for physicians, surgeons, ambulatory surgery centers and hospitals. The Company's chief executive officer, who is the chief operating decision maker, reviews financial information on an aggregate basis for purposes of allocating and evaluating financial performance. All long-lived assets are maintained in the United States.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less at the time of purchase to be cash equivalents, which include money market funds.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of risk consist principally of cash, cash equivalents and accounts receivable. The Company maintains its cash and cash equivalents balances with established financial institutions and, at times, such balances with any one financial institution may be in excess of the Federal Deposit Insurance Corporation ("FDIC") insured limits.

The Company earns revenue from the sale of its products to customers such as hospitals and ambulatory surgery centers. Sales of the Lapiplasty System and ancillary products accounted for the Company's revenue for the year ended December 31, 2020. The Company's accounts receivable are derived from revenue earned from customers. The Company performs ongoing credit evaluations of its customers' financial condition and generally requires no collateral from its customers and independent sales agents. At December 31, 2019 and December 31, 2020, no customer accounted for more than 10% of accounts receivable or revenue.

Accounts Receivable and Allowances

Accounts receivable are generally from hospitals and ambulatory surgery centers and are stated at amounts billed less allowances for doubtful accounts. The Company continually monitors customer payments and maintains an allowance for estimated losses resulting from a customer's inability to make required payments. Company considers factors such as historical experience, credit quality, age of the accounts receivable balances, geographic related risks and economic conditions that may affect a customer's ability to pay. Accounts receivable are written off when the Company deems individual balances are no longer collectible. As of December 31, 2019 and December 31, 2020, accounts receivable is presented net of an allowance for doubtful accounts of $0.3 million and $0.4 million respectively. For the years ended December 31, 2019 and December 31, 2020, the Company recorded provision for bad debts of $0.1 million and $0.2 million, respectively.

Inventories

Inventories consist primarily of surgical kits and components as finished goods and are stated at the lower of cost or net realizable value. Cost is determined based on an average cost method which approximates the first-in, first-out basis and includes primarily outsourced manufacturing costs and direct manufacturing overhead costs.

The Company reviews inventory for obsolescence and writes down inventory, as necessary. For the years ended December 31, 2019 and December 31, 2020, the Company recorded a provision of $0.1 million and $1.1 million for obsolete inventory to cost of goods sold.

Patents

Costs related to filing patent applications are expensed as incurred. Expenses related to patent application filings and licensing were approximately $0.6 million and $0.7 million for the years ended December 31, 2019 and December 31, 2020, are included in research and development expenses in the statement of operations. No patent costs had been capitalized at December 31, 2019 and December 31, 2020.

Property and Equipment, Net

Property and equipment is recorded at cost. Depreciation of property and equipment is recorded using the straight-line method over the following estimated useful lives of the related assets as follows:

	Years
Furniture, fixtures and equipment	7
Machinery and equipment	3
Capitalized surgical instruments . .	1.5
Computer equipment .	3
Leasehold improvements	5 or lease term, whichever is shorter
Software	3

Long-lived assets are evaluated whenever a change in circumstances indicate that the carrying amount of an asset may not be recoverable. If assets are considered to be impaired a charge is recorded for an amount that the carrying value exceeds the fair value. The Company recorded impairment charges for its property and equipment, net of $0 and $0.1 million for the years ended December 31, 2019 and December 31, 2020, respectively.

Deferred Rent

Rent expense is recognized on a straight-line basis over the term of the lease and, accordingly, the difference between cash rent payments and the recognition of rent expense is recorded as deferred rent liability and is accrued within accrued expenses and other liabilities.

Revenue Recognition

The Company generates revenue through the sale of its primary product, the patented Lapiplasty System and ancillary products. The Lapiplasty System is comprised of single-use implant kits and reusable instrument trays. The implant kit and ancillary products are sold in the United States through a combination of a direct employee sales force and independent sales agents. The Company invoices hospitals and ambulatory surgery centers for the implant kits and pays commissions to the sales representatives and independent sales agents. The Company has no international sales.

For shipments to customers, the Company offers the right to return the product within 30 days for a full refund, and for returns between 30 and 90 days, the Company offers a full refund less 15% restocking fee. The Company does not have a history of product returns for refund. Customer invoices are generally payable within 30 days. The Company’s products are generally sold with a limited standard warranty to the original purchaser of the products against defects in workmanship and materials for 180 days. The Company’s liability is limited to providing, at the Company’s option, a full refund or credit of the purchase price, or repairing or replacing the product, provided that the customer returns the defective product within 180 days from the purchase date. To date, the Company has had negligible returns of any products alleged to be defective.

On January 1, 2019, the Company adopted Accounting Standards Codification ("ASC") 606, *Revenue from Contracts with Customers*, using the modified retrospective method for all contracts not completed as of the date of adoption. In connection with the adoption of ASC 606, the Company also adopted the related amendments that impact the accounting for the incremental costs of obtaining a contract. Adoption of ASC 606 did not have any impact on the financial statements, except changes in the disclosures.

Under ASC 606, revenue is recognized when the customer obtains control of promised goods or services, in an amount that reflects consideration which the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that an entity determines are within the scope of ASC 606, the Company performs the following five steps as prescribed by ASC 606:

(i) identify the contract(s) with a customer;

(ii) identify the performance obligations in the contract;

(iii) determine the transaction price;

(iv) allocate the transaction price to the performance obligations in the contract; and

(v) recognize revenue when (or as) the entity satisfies performance obligations.

A contract with a customer exists when (i) the Company enters into a legally enforceable contract with a customer that defines each party's rights regarding the products to be transferred and identifies the payment terms related to these products, (ii) the contract has commercial substance and, (iii) the Company determines that collection of substantially all consideration for its products that are transferred is probable based on the customer's intent and ability to pay the promised consideration. The Company considers signed agreements and purchase orders as a customer's contract.

The Company identifies performance obligations based on the terms of the contract and customary business practices, which include products that are distinct, or a series of distinct goods that are substantially the same and that have the same pattern of transfer to the customer. The Company's Lapiplasty System products are distinct performance obligations. The Company does not have any contracts with customers that contain multiple performance obligations.

The transaction price in the Company's customer contracts includes fixed consideration to be contractually billed to the customer while variable consideration includes the right of return. The Company does not allocate the transaction price or any variable consideration to the right of return. The Company did not recognize a refund liability as of December 31, 2019 and December 31, 2020 and there were no product returns during the years ended December 31, 2019 and December 31, 2020.

Revenue for products is recognized when a customer obtains control of the promised products, which is generally when the customer has the ability to (i) direct its use and (ii) obtain substantially all of the remaining benefits from it. The Company consigns products with its independent sales agents but does not recognize revenue at the time the product is transferred on consignment. Revenue recognition occurs when control of the product transfers to the customer which is generally at the time the product is used in surgery. When a customer purchases products directly from us before the time of surgery, revenue is recognized upon shipment based on the contract terms.

Contract Costs

The Company applies the practical expedient to recognize the incremental costs of obtaining a contract as expense when incurred if the amortization period would be one year or less. These incremental costs include sales commissions paid to the Company's independent sales agents or internal sales representatives.

Cost of Goods Sold

Cost of goods sold consists primarily of costs for the purchase of the Company's Lapiplasty System products from third-party manufacturers. Direct costs from the Company's third-party manufacturers includes costs for raw materials plus the markup for the assembly of the components. Cost of goods sold also includes royalties, allocated overhead for indirect labor, depreciation, rent and information technology, certain direct costs such as those incurred for shipping our products and personnel costs. The Company expenses all inventory provisions for excess and obsolete inventories as cost of goods sold. The Company records adjustments to its inventory valuation for estimated excess, obsolete and non-sellable inventories based on assumptions about future demand, past usage, changes to manufacturing processes and overall market conditions.

Research and Development Expenses

Research and development (R&D) expenses consist primarily of engineering, product development, clinical studies to develop and support the Company's products, regulatory expenses, patent costs, and other costs associated with products and technologies that are in development. These expenses include compensation for personnel, including salaries, bonuses, benefits and stock-based compensation, supplies, consulting, prototyping, testing, materials, travel expenses, depreciation and an allocation of facility overhead expenses. Additionally, R&D expenses include costs associated with our clinical studies, including clinical trial design, clinical trial site initiation and study costs, data management, related travel expenses and the cost of products used for clinical trials, internal and external costs associated with the Company's regulatory compliance and quality assurance functions and allocated overhead costs. Research and development expenses for the years ended December 31, 2019 and December 31, 2020 were $5.1 million and $5.8 million respectively.

Shipping and Handling

The Company bills customers for shipping and handling costs. Amounts billed for shipping and handling are included in sales. Shipping and handling costs incurred by the Company are included in marketing and sales expenses.

Advertising Costs

Advertising costs are expensed as incurred and are included as a component of marketing and sales expenses. Advertising costs totaled approximately $1.9 million and $3.1 million for the years ended December 31, 2019 and December 31, 2020.

Income Taxes

The Company accounts for income taxes under the liability method, whereby deferred tax assets and liabilities are determined based on the difference between the financial statements and tax bases of assets and liabilities using the enacted tax rates in effect for the year in which the differences are expected to affect taxable income. A valuation allowance is established when necessary to reduce deferred tax assets when management estimates, based on available objective evidence, that it is more likely than not that the benefit will not be realized for the deferred tax assets.

The Company also follows the provisions of ASC 740-10, *Accounting for Uncertainty in Income Taxes*. ASC 740-10, which prescribes a comprehensive model for the recognition, measurement, presentation and disclosure in financial statements of any uncertain tax positions that have been taken or expected to be taken on a tax return. No liability related to uncertain tax positions is recorded on the financial statements. It is the Company's policy to include penalties and interest expense related to income taxes as part of the provision for income taxes.

Product Liability

The Company believes it carries adequate insurance for possible product liability claims. Accruals for product liability claims and legal defense costs in excess of insured amounts are recorded if it is probable that a liability has been incurred and the amount of any liability can be reasonably estimated. No accruals for product liability claims had been recorded as of December 31, 2019 and December 31, 2020.

Stock-Based Compensation

The Company accounts for stock-based compensation arrangements with employees in accordance with ASC 718, *Compensation—Stock Compensation*, using a fair-value based method. The Company determined the value of the Company using the income, asset based and market approaches. The value was allocated among the share classes based upon the Probability-Weighted Expected Return Method ("PWERM") and the option pricing model ("OPM"), estimating the probability-weighted value across multiple scenarios but using the option pricing model to estimate the allocation of value for those scenarios. The Company then determines the fair value of stock options on the date of grant using the Black-Scholes option pricing model. The Company's determination of the fair value of stock options is impacted by its common stock price as well as assumptions regarding a number of complex and subjective variables. These variables include, but are not limited to, the anticipated timing of a potential liquidity event, expected common stock price volatility over the term of the option awards, risk-free interest rates and expected dividends. Changes in the assumptions can materially affect the fair value and ultimately how much stock-based compensation expense is recognized. These inputs are subjective and generally require significant analysis and judgment to develop.

The fair value of time-based awards is recognized over the period during which an option holder is required to provide services in exchange for the option award, known as the requisite service period, which is typically the vesting period using the straight-line method. The Company accrues for estimated forfeitures on share-based awards and, adjusts stock-based compensation cost to actual as forfeitures occur. The estimated forfeitures are based on a historical analysis of actual forfeitures of awards.

Comprehensive Loss

The Company is required to report all components of comprehensive loss, including net loss, in the financial statements in the period in which they are recognized. Comprehensive loss is defined as a change in equity of a business enterprise during a period, resulting from transactions and other events and circumstances from non-owner sources. Comprehensive loss equaled net loss for the years ended December 31, 2019 and December 31, 2020.

Net Loss Per Share Attributable to Common Stockholders

Basic net loss per share attributable to common stockholders is calculated by dividing the net loss attributable to common stockholders, by the weighted-average number of common shares outstanding during the period, without consideration for potentially dilutive securities. Diluted net loss per share is computed by dividing the net loss by the weighted-average number of common shares and potentially dilutive securities outstanding for the period. For purposes of the diluted net loss per share calculation, convertible preferred stock, and common stock options are considered to be potentially dilutive securities. Because the Company has reported a net loss for the year ended December 31, 2019 and December 31, 2020, diluted net losses per common share were the same as basic net losses per common share for the periods.

Derivative Liability

The Company evaluates its financial instruments for embedded features and bifurcates embedded features from the host instrument that meet the definition of a derivative and if (a) the economic characteristics and risks of the embedded feature are not clearly and closely related to the host instrument, (b) the hybrid instrument that embodies both the embedded feature and the host contract is not remeasured at fair value under otherwise

applicable generally accepted accounting principles with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded feature would be considered a derivative instrument subject to the accounting requirements of derivative instruments.

The Company uses judgment in determining the fair value of embedded features that are bifurcated from the host instrument and accounted for as derivative instruments at the date of issuance and at every balance sheet date thereafter. The valuation method used in the determination of fair value is based on the type of derivative instrument. At each balance sheet date, the Company remeasures its derivative instruments at fair value with adjustments to fair value recognized within other expense, net.

3. Recent Accounting Pronouncements

Recent Accounting Pronouncements Not Yet Adopted

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842) ("ASC 842")*, which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e. lessees and lessors). In July 2018, the FASB issued ASU 2018-10, *Codification Improvements to Topic 842, Leases*, which provides clarification to ASU 2016-02. In March 2019, the FASB issued ASU 2019-01, which provides clarification on implementation issues associated with adopting ASU 2016-02. These ASUs (collectively the "new leasing standard") requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease, respectively. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. ASC 842 provides a lessee with an option to not account for leases with a term of 12 month or less as leases in the scope of the new standard. ASC 842 supersedes the previous leases standard, ASC 840, *Leases*. In July 2018, the FASB issued ASU 2018-11, Leases (Topic 842): Targeted Improvements, which allows entities to elect an optional transition method where entities may continue to apply the existing lease guidance during the comparative periods and apply the new lease requirements through a cumulative effect adjustment in the period of adoption rather than in the earliest period presented. The new standard is effective for fiscal years beginning after December 15, 2021 and early application is permitted. The Company is currently assessing the impact that this standard may have on its financial statements.

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments – Credit Losses*. This new guidance will require financial instruments to be measured at amortized cost, and trade accounts receivable to be presented at the net amount expected to be collected. The new model requires an entity to estimate credit losses based on historical information, current information and reasonable and supportable forecasts, including estimates of prepayments. In November 2019, the FASB issued ASU 2019-10, according to which, the new standard is effective for fiscal years beginning after December 15, 2022, and interim periods within that fiscal year. The Company is currently evaluating the impact of the new standard on its financial statements.

4. Fair Value Measurements

Assets and liabilities recorded at fair value in the financial statements are categorized based upon the level of judgment associated with the inputs used to measure their fair value. Hierarchical levels which are directly related to the amount of subjectivity associated with the inputs to the valuation of these assets or liabilities are as follows:

Level 1—Inputs are unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access as of the measurement date.

Level 2—Inputs are observable, unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the related assets or liabilities.

Level 3—Unobservable inputs for the asset or liability only used when there is little, if any, market activity for the asset or liability at the measurement date. This hierarchy requires the Company to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value.

Assets and Liabilities Measured and Recorded at Fair Value on a Recurring Basis – The following assets and liabilities are measured at fair value on a recurring basis as of December 31, 2019 and December 31, 2020:

	December 31, 2019			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market funds(1)	$11,880	$ —	$ —	$11,880
Total	$11,880	$ —	$ —	$11,880

	December 31, 2020			
	Level 1	Level 2	Level 3	Total
Assets:				
Money market funds(1)	$17,577	$ —	$ —	$17,577
Total	$17,577	$ —	$ —	$17,577
Liabilities:				
Derivative liability	$ —	$ —	$ 245	$ 245
Total	$ —	$ —	$ 245	$ 245

(1) Money market funds are included in cash and cash equivalents in the balance sheets as of December 31, 2019 and 2020.

As discussed in Note 6, in July 2020, the Company entered into the CRG Term Loan Facility and accounted for embedded features in the agreement as a derivative liability with an initial fair value of $0.2 million. The derivative liability was accounted for at fair value using the income approach and inputs consisting of (a) the probability of events occurring that trigger an event of default of the Company's term loans under the CRG Term Loan Facility, ranging from 1% to 2%, (b) the prepayment premium payable upon early redemption, and (c) additional interest payable upon an event of default. There were no adjustments to the fair value of the derivative liability recognized in net loss for the year-ended December 31, 2020.

There were no assets or liabilities measured at fair value on a nonrecurring basis as of December 31, 2019 and December 31, 2020.

5. Balance Sheet Components

Cash and Cash Equivalents

The Company's cash and cash equivalents consisted of the following (in thousands):

	December 31,	
	2019	2020
Cash	$ 259	$ 502
Cash equivalents:		
Money market funds	11,880	17,577
Total cash and cash equivalents	$12,139	$18,079

Property and equipment, net

The company's property and equipment, net considered of the following (in thousands):

	December 31, 2019	December 31, 2020
Furniture and fixtures, and equipment	$ 70	$ 131
Machinery and equipment	155	226
Capitalized surgical instruments	2,190	2,652
Computer equipment	150	150
Leasehold improvements	84	168
Software	138	138
Total property and equipment	2,787	3,465
Less: accumulated depreciation and amortization	(1,641)	(2,636)
Property and equipment, net	$ 1,146	$ 829

Depreciation and amortization expense on property and equipment was $0.8 million and $1.2 million for the years ended December 31, 2019 and December 31, 2020.

Accrued liabilities

Accrued other liabilities consist of the following (in thousands):

	December 31, 2019	December 31, 2020
Accrued royalty expenses	$ 741	$1,032
Accrued expenses	411	565
Other	142	251
Total prepaid expenses and other current assets	$1,294	$1,848

6. Long Term Debt

Silicon Valley Bank

On December 31, 2019, the Company entered into the Second Amendment to the Loan and Security Agreement (the "Second Amendment") with Silicon Valley Bank ("SVB"). The Second Amendment represents a modification to the First Amendment to the Loan and Security (the "First Amendment") dated February 14, 2019 and the Loan and Security Agreement (the "LSA") dated April 18, 2018. The LSA, First Amendment, and Second Amendment (collectively the "SVB Credit Facility") is secured by substantially all the assets of the Company (excluding intellectual property) and matures August 3, 2024.

The SVB Credit Facility provides for up to $25.0 million in term loans and up to $5.0 million in a revolving line of credit. The term loans are structured in three tranches. The Company received the proceeds from tranche 1 of $10.0 million upon execution of the First Amendment. The Company received the proceeds from tranche 2 of $10.0 million upon execution of the Second Amendment. Access to tranche 3 of remaining $5.0 million was subject to achievement of a revenue milestone prior to December 31, 2020. The term loans are interest only through August 1, 2021 with amortization of the principal balance beginning September 1, 2021 through the Maturity Date. The interest only period can be extended through February 1, 2022 based on achievement of the milestone and the funding of tranche 3.

The term loans accrue interest at a floating per annum rate equal to the greater of (i) prime rate plus 2.25% as published in the money rates section of the Wall Street Journal, or (ii) seven and one-half percent (7.5%) for

tranche 1 and 2 and seven percent (7.0%) for tranche 3. Interest on the term loans is payable monthly in arrears. Under the terms of the SVB Credit Facility, the Company is subject to certain affirmative and negative covenants, including (but not limited to), covenants limiting the Company's ability to incur certain additional indebtedness, create certain liens, and make certain distributions and investments without the lender's consent.

Availability under the revolving line of credit is subject to a formula based on, among other things, eligible accounts receivable. Borrowings on the line of credit bear interest at a floating rate per annum equal to 1.00% above the prime rate as published from time to time in the money rates section of the Wall Street Journal.

Under the terms of the SVB Credit Facility, the Company granted SVB first priority liens and security interests in substantially all of the Company's assets (excluding its intellectual property but including any proceeds and rights to payments associated with our intellectual property) as collateral. The SVB Credit Facility also contains certain representations and warranties, indemnification provisions in favor of SVB, affirmative and negative covenants (including, among other things, requirements that the Company maintain a minimum amount of liquidity and achieve minimum revenue targets, limitations on other indebtedness, liens, acquisitions, investments and dividends and requirements relating to financial reporting, sales and leasebacks, insurance and protection of the Company's intellectual property rights) and events of default (including payment defaults, breaches of covenants following any applicable cure period, investor abandonment, a material impairment in the perfection or priority of the lender's security interest or in the collateral, and events relating to bankruptcy or insolvency).

The Company issued warrants in connection with the SVB Credit Facility that gives the lender the right to purchase up to 533,332 shares of the Company's Class A common stock (see Note 9). The Company valued the warrants based upon the probability-weighted expected return method and option pricing model using the Black-Scholes option pricing model and accounted for the warrants as debt discount and additional paid in capital on the balance sheets. The Company paid issuance costs in connection with the SVB Credit Facility of $0.3 million which were recorded as a reduction of debt. The debt discount and debt issuance costs are amortized over the term of the debt using the effective interest method and included within interest expense on the statement of operations.

On August 3, 2020, the Company entered into the Third Amendment to the LSA (the "Third Amendment") with SVB. The Third Amendment, which represents a modification to the Second Amendment, terminates tranche 3 of the term loans, increases the revolving line of credit from $5.0 million to $10.0 million, and extends the maturity date to August 3, 2024. In addition, the Third Amendment modifies the interest rate on the revolving line of credit to the greater of (a) 1.00% above the prime rate as published from time to time in the money rates section of the Wall Street Journal and (b) 5.00%, and includes a termination fee to be an amount of 1.00% of the revolving line of credit if the termination occurs before the second anniversary of the closing of the Third Amendment. Proceeds received from the CRG Term Loan Facility were used to repay the $20.0 million in term loans outstanding under the Second Amendment to the LSA (described below). As of December 31, 2020, the Company had $10.0 million in available borrowings on the line of credit and was in compliance with all covenants under the SVB Credit Facility.

As of December 31, 2019, the balance outstanding for term loans under the SVB Credit Facility was $20.0 million. The Company did not have any balances outstanding under the revolving line of credit as of December 31, 2019 and December 31, 2020.

CRG Term Loan Facility

On July 31, 2020, the Company entered into a non-revolving term loan facility with CRG (the "CRG Term Loan Facility"), to obtain up to $50.0 million in financing over three tranches to be advanced no later than December 31, 2021. Principal amounts totaling $30 million were borrowed through December 31, 2020 and are currently outstanding. The CRG Term Loan Facility matures on June 30, 2025, and the Company can elect to

make quarterly interest-only payments or to pay interest in-kind through December 31, 2020. The Company is not required to make any principal payments until the maturity of the CRG Term Loan Facility and all outstanding principal and accrued interest are due upon the maturity of the CRG Term Loan Facility. Interest under the CRG Term Loan Facility is applied to outstanding principal and accrued interest at a rate of 13.00% per annum. In an event of default occurs, interest under the CRG Term Loan Facility will increase by 4.00%. If the Company repays the CRG Term Loan Facility within one year of the borrowing date, the Company is required to pay a premium of 20.00% of the aggregated outstanding principal amount of the loans that is repaid. If the Company repays the CRG Term Loan Facility between one and two years from the borrowing date, it is required to pay a premium of 11.00% of the aggregated outstanding principal amount of the loans that is repaid. The CRG Term Loan Facility does not require a prepayment premium for loans being prepaid on the prepayment date that is longer than two years from the initial borrowing date.

Under the terms of the CRG Term Loan Facility, the Company granted CRG first priority liens and security interests in substantially all of the Company's assets as collateral (including the Company's intellectual property), provided that the priority of such liens are subject to an intercreditor agreement between CRG and SVB. The CRG Term Loan Facility also contains certain representations and warranties, indemnification provisions in favor of CRG, affirmative and negative covenants (including, among other things, requirements that the Company maintain a minimum amount of liquidity and achieve minimum revenue targets, comply with limitations on other indebtedness, liens, acquisitions, investments and dividends and requirements relating to financial reporting, sales and leasebacks, insurance and protection of the Company's intellectual property rights) and events of default (including payment defaults, breaches of covenants following any applicable cure period, investor abandonment, a material impairment in the perfection or priority of the lender's security interest or in the collateral, and events relating to bankruptcy or insolvency).

The Company paid $0.5 million in fees to CRG and $0.2 million in fees to third parties in connection with the CRG Term Loan Facility. The fees were recorded as debt issuance costs and classified as contra-debt. In addition, the Company recognized $0.2 million as debt discount on borrowings under the CRG Term Loan Facility due to embedded features contained in the agreement which resulted in a derivative liability. Debt issuance costs and debt discount are amortized to interest expense using the effective interest method.

As of December 31, 2020, the balance outstanding under the CRG Term Loan Facility, net of debt issuance costs and debt discount, was $29.2 million.

PPP Loan

The Company applied for and received a $1.8 million loan (the "PPP Loan") under the Paycheck Protection Program (the "PPP") under the Coronavirus Aid Relief, and Economic Security Act ("CARES Act"). The PPP Loan, which was in the form of a promissory note, dated April 22, 2020, between the Company and SVB as the lender, matures on April 22, 2022 and bears interest at a fixed rate of 1% per annum, payable monthly on the date that is the latter of (i) the date that is the 10th month after the end of the PPP Loan covered period and (ii) assuming the Company applied for forgiveness within the period described in clause (i), the date on which the Small Business Administration (the "SBA") remits the loan forgiveness amount on the loan to SVB (or notifies such lender that no loan forgiveness is allowed). Under the terms of the PPP Loan, the principal may be forgiven if the loan proceeds are used for qualifying expenses as described in the CARES Act, such as payroll costs, benefits, mortgage interest, rent, and utilities. While the details of the PPP continue to evolve regarding which companies are qualified to receive loans pursuant to the PPP and on what terms, the Company repaid $1.8 million borrowed under the PPP Loan in March 2021.

The Company's debt consisted of the following (in thousands):

	December 31, 2019	December 31, 2020
Revolving line of credit		
SVB Credit Facility	$ —	$ —
Term loans		
SVB Credit Facility	20,000	—
CRG Term Loan Facility	—	30,000
PPP Loan	—	1,788
Total term loans	20,000	31,788
Less: debt discount and issuance costs	(777)	(811)
Total debt	19,223	30,977
Short-term debt	—	1,788
Long-term debt	$19,223	$29,189

As of December 31, 2020, future payments under term loan, including interest only payments and the final payment, were as follows (in thousands):

Fiscal Year	
2021	$ 1,788
2022	—
2023	—
2024	—
2025	30,000
Total principal payments	31,788
Less: Unamortized debt discount and debt issuance costs	(811)
Total short-term and long-term debt	$30,977

During the years ended December 31, 2019 and December 31, 2020, the Company recorded $0.8 million and $2.7 million, respectively, in interest expense related to the borrowings under the SVB Credit Facility and CRG Credit Facility. During the years ended December 31, 2019 and December 31, 2020, amortization of the debt discount was immaterial and $0.1 million, respectively.

7. Commitments and Contingencies

Operating Lease

The Company has commitments for future payments related to its lease of office space located in Ponte Vedra, Florida. The Company leases its office space under an operating lease agreement expiring in 2024. Lease payments comprise of the base rent stated in the lease plus operating costs which include taxes, insurance and common area maintenance.

In November of 2019 the Company amended the lease agreement to include additional space of the second floor of their existing building. The commencement date began May 1, 2020 and is reflected as such in the minimum rental obligation schedule below.

The future minimum rental obligations required under non-cancelable leases at December 31, 2020 were as follows (in thousands):

Fiscal Year	
2021	$ 518
2022	466
2023	278
2024	286
Total minimum lease payments	$1,548

Total rent expense was approximately $0.2 million and less than $0.1 million for the years ended December 31, 2019 and December 31, 2020, respectively.

License and Royalty Commitments

The Company has entered into product development and fee for service agreements with members of its Surgeon Advisory Board that specify the terms under which the member is compensated for his or her consulting services and grants the Company rights to the intellectual property created by the member in the course of such services. As products are commercialized with the assistance of members of the Surgeon Advisory Board, the Company may agree to enter into royalty agreement if the member's contributions to the product are novel, significant and innovative.

As of December 31, 2019 and December 31, 2020, the Company has royalty agreements with certain members of our Surgeon Advisory Board providing for royalties based on each individual's level of contribution. Each royalty agreement: (i) confirms the irrevocable transfer to the Company of all pertinent intellectual property rights; (ii) sets the applicable royalty rate; (iii) sets the period of time during which royalties are payable; (iv) is for a term of three years, renewable by the parties, and may be terminated by either party on 90 days' notice for convenience (provided that if terminated by the Company for convenience the obligation to pay royalties is not affected); and (v) prohibits the payment of royalties on products sold to entities and/or individuals with whom the surgeon advisor or any other surgeon advisor entitled to royalties is affiliated. Each of the royalty agreements may be subsequently amended to add the license of additional intellectual property covering new products, and as a result, multiple royalty rates and duration of royalty payments may be included in one royalty agreement.

As of December 31, 2019 and December 31, 2020, the Company's royalty agreements provide for (i) royalty payments for 10 years from first commercial sale of the relevant product and (ii) a royalty rate for each such agreement ranging from 0.5% to 3% of net sales for the particular product to which the surgeon contributed.

The Company recognized royalties' expense of $1.7 million and $2.4 million for the years ended December 31, 2019 and December 31, 2020, respectively, resulting in an aggregate royalty rate of 4.3% and 4.1% for the years ended December 31, 2019 and December 31, 2020, respectively.

Contingencies

From time to time, the Company may be a party to various litigation claims in the normal course of business. Legal fees and other costs associated with such actions are expensed as incurred. The Company assesses, in conjunction with legal counsel, the need to record a liability for litigation and contingencies. Accrual estimates are recorded when and if it is determinable that such a liability for litigation and contingencies are both probable and reasonably estimable.

8. Income Taxes

The Company has not recorded an income tax provision for years ended December 31, 2019 and December 31, 2020 due to its operating losses. All losses before income taxes were generated in the United States.

Reconciliation of the statutory federal income tax to the Company's effective tax is as follows:

	December 31,	
	2019	2020
Income tax at the statutory rate	(21%)	(21%)
Research and development credits	(3%)	(4%)
State taxes, net of federal benefit	(4%)	(4%)
Non-deductible items	1%	1%
Change in valuation allowance	27%	28%
	0%	0%

The tax effects of temporary differences and carryforwards that give rise to significant portions of deferred tax assets were as follows (in thousands):

	December 31,	
	2019	2020
Components of the deferred tax assets		
Net operating loss carryforwards	$ 2,904	$ 3,703
Research and development credits	358	475
Stock option compensation expense	473	672
Inventory	138	218
Property and equipment	68	45
Deferred lease payable	10	10
Allowance for doubtful accounts	71	113
Accrued bonus	584	244
Other	25	21
Total deferred tax assets	4,631	5,501
Deferred tax asset valuation allowance	(4,631)	(5,501)
Net deferred tax assets	$ —	$ —

In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax asset will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax assets, projected future taxable income, and tax planning strategies in making this assessment. Due to the Company's history of net losses, the deferred tax assets have been fully offset by full valuation allowance of $4.6 million and $5.5 million as of December 31, 2019 and December 31, 2020, respectively. The Company's change in the deferred tax asset valuation allowance for years ended December 31, 2019 and December 31, 2020, were approximately $1.2 million and $0.9 million, respectively.

The Company had unused federal and state net operating loss carryforwards of approximately $11.5 million and $9.5 million, respectively as of December 31, 2019, and federal and state net operating loss carryforwards of approximately $14.6 million and $9.5 million, respectively, as of December 31, 2020. The net operating loss carryforwards begin to expire in 2034 and research and development tax credit carryforwards of $0.4 million and $0.4 million as of December 31, 2019 and December 31, 2020, respectively, begin to expire in 2037.

The federal and state net operating loss carryforwards and credits may be subject to significant limitations under Section 382 and Section 383 of the Internal Revenue Code and similar provisions under state law. The Tax Reform Act contains provisions that limit the federal net operating loss carryforwards that may be used in any given year in the event of special occurrences, including significant ownership changes. A Section 382 "ownership change" generally occurs if one or more stockholders or groups of stockholders, who own at least 5% of the Company's stock, increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. The Company may have previously experienced, and may in the future experience, one or more Section 382 "ownership changes," including in connection with the Company's initial public offering. If so, the Company may lose some or all of the tax benefits of its carryforwards and credits. Based on our analysis as of December 31, 2020, we have determined that we do not expect these limitations to impair our ability to use our NOLs prior to expiration.

Management has reviewed and evaluated the relevant technical merits of each of its tax positions in accordance with accounting principles generally accepted in the United States of America for accounting for uncertainty in income taxes, and determined that there are no uncertain tax positions that would have a material impact on the financial statements of the Company. The Company is not subject to U.S. Federal and state income tax examinations by tax authorities for tax years before 2016.

9. Warrants for Class A Common Stock

During 2019, the Company issued warrants in connection with the SVB Credit Facility that give SVB the right to purchase up to 533,332 shares of the Company's Class A common stock. The warrants have a 10-year expiration period with a strike price equal to $5.38. The estimated fair value of the warrants was $594,876 on the date of issuance and was allocated to paid in capital and debt discount. The Company determined the grant date fair value of the warrants using a Black-Scholes option pricing model, with the following assumptions:

Expected dividend	0%
Expected volatility	49.19%
Risk-free interest rate	2.30%
Expected warrant life	3 years

Under the terms of the SVB Credit Facility, the Company was required to issue an additional 66,668 warrants for shares of common stock at the time of the closing of tranche 3. The additional warrants would have the same terms as the already-issued warrants and an exercise price equal to the fair value of common stock at the date when issued. These warrants were considered contingently issuable financial instruments and the estimated fair value was immaterial as of December 31, 2019. On August 3, 2020, the Company entered into the Third Amendment with SVB, which terminated tranche 3 of the term loans and the related obligation to issue the additional 66,668 common stock warrants.

10. Stockholders' Equity

Convertible Preferred Stock

Under the Company's Amended and Restated Certificate of Incorporation, the Company is authorized to issue up to 5,000,000 shares of Series A convertible preferred stock (the "Preferred Shares"), with 5,000,000 shares issued and outstanding as of December 31, 2019 and December 31, 2020.

Dividends—Dividends on the Preferred Shares accrue at the rate of 8% per annum on the original issue price and holders of the Preferred Shares have general preference rights with respect to dividends and distributions to holders of Common Stock. Accrued dividends may be paid in cash or, at the election of the Company's Board of Directors, paid in kind by issuing Class A Common Stock at the then per share value as determined by an independent appraiser.

At December 31, 2019 and December 31, 2020, the Company had accrued and unpaid Preferred Shares dividend of $1.7 million and $2.3 million, respectively, which may be paid from available cash or in Class A Common Stock.

Voting Rights—Holders of the Preferred Shares are entitled to vote with holders of Class A Common Stock equal to the number of shares of Class A Common Stock into which the Preferred Shares are convertible.

Conversion—Each Preferred Share is convertible, at the option of the holder at any time after the date of issuance and upon a deemed liquidation event, as defined in the Certificate of Incorporation, into the number of fully paid and non-assessable shares of Class A Common Stock as determined by dividing the original issue price per share of the Preferred Shares by the conversion price per share in effect at the time of conversion. The original conversion price per Preferred Share is the original issue price of $1.60, and is subject to adjustment, as described in the Company's Amended and Restated Certificate of Incorporation.

In addition, upon conversion, the Company will pay all accrued and unpaid dividends on such converted Preferred Shares (i) in cash, or (ii) upon the election of the Company's Board of Directors or the holders of Preferred Shares to receive payment of the dividends in kind, by issuing the holder additional shares of Class A Common Stock equal to the quotient of the accrued and unpaid dividends on the Preferred Shares with respect to the converted shares, divided by the most recent per share value, as determined by an independent appraiser.

Common Stock

The Amended and Restated Certificate of Incorporation authorizes the Company to issue up to 50,000,000 Class A Common Stock voting shares and 1,000,000 Class B Common Stock non-voting shares.

Shares Reserved for Future Issuance

The Company has reserved shares of common stock for future issuances as follows:

	December 31,	
	2019	2020
Series A convertible preferred stock outstanding	5,000,000	5,000,000
Warrants to purchase Class A common stock	533,332	533,332
Common stock options issued and outstanding	5,588,337	6,042,544
Estimated preferred share conversion	—	249,956
Class A common stock available for future grants	11,190,647	10,236,309
Class B common stock available for future grants	1,000,000	1,000,000
Total	23,312,316	23,062,141

Stock Option Plan

The Company has approved the 2014 Stock Plan (the "Stock Plan"), to allow for the issuance of stock purchase rights and to grant options to purchase Class A Common Stock to employees, directors and consultants. Stock options shall have a term of no more than ten years from the date of grant and vest in equal installments over a maximum of five years. At December 31, 2020, the Stock Plan is authorized to grant awards for up to 8,000,000 shares of Class A Common Stock which may include incentive stock options, non-statutory stock options, or stock purchase rights.

Activity under the Stock Plans is set forth below:

	Shares Available for Grant	Outstanding Options		
		Number of Shares	Weighted-Average Remaining Contractual Term (in years)	Weighted-Average Exercise Price
Balance, January 1, 2019	2,039,708	4,793,542		$ 1.40
Options granted	(1,272,920)	1,272,920		$ 3.50
Options exercised	—	(194,500)		$ 0.35
Options canceled	283,625	(283,625)		$ 2.49
Balance, December 31, 2019	1,050,413	5,588,337	7.66	$ 1.82
Shares authorized	1,000,000	—		
Options granted	(1,095,957)	1,095,957		$ 6.97
Options exercised	—	(250,486)		$ 1.45
Options canceled	391,264	(391,264)		$ 2.42
Balance, December 31, 2020	1,345,720	6,042,544	6.86	$ 2.43
Options vested and expected to vest at December 31, 2020		5,247,863	6.56	$ 2.03
Options vested and exercisable at December 31, 2020		3,432,718	5.70	$ 1.15

The aggregate intrinsic value of options exercised during the years ended December 31, 2019 and December 31, 2020 was $0.9 million and $1.9 million, respectively. The aggregate intrinsic value is calculated as the difference between the exercise price of the underlying stock options and the fair value of the Company's common stock for stock options that were in-the-money as of year-end. Aggregate intrinsic values of options outstanding, options vested and expected to vest and options exercisable were $42.1 million, $38.7 million and $28.0 million as of December 31, 2020, respectively.

Stock-Based Compensation

During the year ended December 31, 2019 and December 31, 2020, the Company granted stock options to employees to purchase an aggregate of 1,272,920 and 1,095,957 shares respectively, of the Company's common stock. The weighted-average grant date fair value of the employee stock options granted during the years ended December 31, 2019 and December 31, 2020 were $1.25 and $3.02 per share, respectively.

The Company uses the Black-Scholes option pricing model to determine the fair value of stock options at the grant dates with the following weighted-average assumptions for options granted during 2019 and 2020 fiscal years:

	December 31,	
	2019	2020
Expected term (in years)	3.0 years	2.7 – 3.3 years
Expected volatility	49.19%	37.09% – 51.29%
Risk-free interest rate	2.30%	0.18% -1.53%
Expected dividend yield	0.00%	0.00%

Expected Term

The expected term represents the period that the stock options are expected to remain outstanding. The Company determined the expected term based upon the probabilities of the anticipated timing of potential liquidity events.

Expected Volatility

The expected volatility is derived from the historical stock volatilities of several comparable publicly listed peers over a period approximately equal to the expected term of the options as the Company has no trading history to determine the volatility of its common stock. In evaluating similarity, the Company considered factors such as industry, stage of life cycle and size.

Risk-Free Interest Rate

The risk-free interest rate assumption is based on the U.S. Treasury yield curve in effect at the date of grant for zero-coupon U.S. Treasury notes with maturities approximately equal to the stock-based awards' expected term.

Expected Dividend Yield

The expected dividend yield is zero as the Company has not paid nor does it anticipate paying any dividends on its common stock in the foreseeable future.

Fair Value of Common Stock

The fair value of the Company's common stock is determined by the Board of Directors with assistance from Management and, in part, on input from an independent third-party valuation firm. The Board of Directors determines the fair value of common stock by considering a number of objective and subjective factors, including valuations of comparable companies, sales of convertible preferred stock, operating and financial performance, probabilities of anticipated timing of potential liquidity events, the lack of liquidity of the Company's common stock and the general and industry-specific economic outlook.

Stock-Based Compensation Expense

Stock-based compensation expense is reflected in the statements of operations and comprehensive loss as follows (in thousands):

	December 31,	
	2019	2020
Sales and marketing expenses	$404	$479
Research and development expenses	160	199
General and administrative expenses	250	241
Total	$814	$919

As of December 31, 2019 and December 31, 2020, there was $2.2 million and $4.1 million, respectively, of unrecognized stock-based compensation expense related to unvested common stock options, which the Company expects to recognize over a weighted-average period of 2.65 years and 3.01 years, respectively. The total grant date fair value of shares vested during the year ended December 31, 2019 and December 31, 2020 were $0.8 million and $0.9 million, respectively.

11. Net Loss Per Share Attributable to Common Stockholders

The following table sets forth the computation of basic and diluted net loss per share attributable to common stockholders which is computed by dividing the net loss attributable to common stockholders by the weighted- average number of shares of common stock outstanding for the period. As the Company reported a net loss for the years ended December 31, 2019 and December 31, 2020, basic net loss per share attributable to common stockholders was the same as diluted net loss per share attributable to common stockholders as the inclusion of

potentially dilutive shares would have been antidilutive if included in the calculation (in thousands, except share and per share amounts):

	December 31, 2019	December 31, 2020
Numerator		
Net loss	$ (4,265)	$ (3,668)
Adjust: Convertible preferred stock cumulative and undeclared dividends	(640)	(640)
Net loss attributable to common stockholders	(4,905)	$ (4,308)
Denominator		
Weighted-average common stock outstanding, basic and diluted	27,597,463	27,715,129
Net loss per share attributable to common stockholders, basic and diluted	$ (0.18)	$ (0.16)

The following potentially dilutive securities outstanding have been excluded from the computation of diluted weighted average shares outstanding because such securities have an antidilutive impact due to the Company's net loss, in common stock equivalent shares:

	December 31, 2019	December 31, 2020
Series A convertible preferred stock outstanding	5,000,000	5,000,000
Warrants to purchase Class A common stock	533,332	533,332
Common stock option issued and outstanding	5,588,337	6,042,544
Total	11,121,669	11,575,876

12. Subsequent Events

The Company evaluated subsequent events through March 30, 2021, the date on which the accompanying financial statements were issued.

Retirement Plan

Effective as of January 2021, the Company began sponsoring a 401(k) profits sharing plan trust for our employees who satisfy certain eligibility requirements. The Company matches employee contributions to the 401(k) plan at a rate equal to 100% of the first 3% of the employee's pre-tax salary contributed and 50% of any additional contributions, including and up to 5% of the employee's pre-tax salary. Participants vest in their company matching contributions after 90 days of service and in any potential future nonelective contributions by the Company on a one-to-six year graded vesting schedule.

PPP Loan

In March 2021, the Company repaid the $1.8 million in borrowings outstanding from the PPP loan.

Lease for Headquarters

In March 2021, the Company amended the lease agreement for its corporate headquarters in Ponte Vedra to include additional space of the second floor of their existing building.

Option Grants

Since January 1, 2021, the Company has granted options to purchase 382,500 shares under the Stock Plan, options to purchase 516,300 shares have been exercised and options to purchase 3,875 shares have been forfeited.

Table of Contents

Shares

Common Stock

Prospectus

J.P. Morgan **Morgan Stanley**

SVB Leerink **Stifel**

, 2021

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth the costs and expenses, other than underwriting discounts and commissions, payable by us in connection with the sale of the common stock being registered. All amounts are estimates except for the Securities and Exchange Commission (SEC) registration fee, the Financial Industry Regulatory Authority (FINRA) filing fee and the Nasdaq Global Market (Nasdaq) listing fee.

	Amount Paid or to Be Paid
SEC registration fee	$ 10,910
FINRA filing fee	15,500
Nasdaq listing fee	*
Transfer agent's fees and expenses	*
Printing and engraving expenses	*
Legal fees and expenses	*
Accounting fees and expenses	*
Blue Sky fees and expenses	*
Miscellaneous	*
Total	$ *

* To be completed by amendment.

Item 14. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending, or completed actions, suits, or proceedings in which such person is made a party by reason of such person being or having been a director, officer, employee, or agent to the registrant. The Delaware General Corporation Law provides that Section 145 is not exclusive of other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise. Article 9 of the registrant's amended and restated certificate of incorporation provides for indemnification by the registrant of its directors, officers, and employees to the fullest extent permitted by the Delaware General Corporation Law. The registrant has entered into indemnification agreements with each of its current directors, executive officers, and certain other officers to provide these directors and officers additional contractual assurances regarding the scope of the indemnification set forth in the registrant's amended and restated certificate of incorporation and amended and restated bylaws and to provide additional procedural protections. There is no pending litigation or proceeding involving a director or executive officer of the registrant for which indemnification is sought.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases, redemptions, or other distributions, or (iv) for any transaction from which the director derived an improper personal benefit. The registrant's amended and restated certificate of incorporation provides for such limitation of liability.

The registrant maintains standard policies of insurance under which coverage is provided (i) to its directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act, and (ii) to the registrant with respect to payments that may be made by the registrant to such officers and directors pursuant to the above indemnification provision or otherwise as a matter of law.

The proposed form of underwriting agreement to be filed as Exhibit 1.1 to this registration statement provide for indemnification of directors and officers of the registrant by the underwriters against certain liabilities.

Item 15. Recent Sales of Unregistered Securities

Since January 1, 2018, the registrant has sold the following securities without registration under the Securities Act of 1933, as amended:

(a) Since January 1, 2018, we have granted to our directors, employees and consultants options to purchase 3,968,477 shares of our common stock with per share exercise prices ranging from $1.40 to $9.40 under our 2014 Stock Plan, as amended (the 2014 Plan) of which 870,964 shares have been canceled or forfeited and 978,036 shares have been exercised.

(b) Between February and December 2019, we issued warrants to purchase an aggregate of 533,332 shares of common stock with an exercise price of $5.38 to two accredited investors.

The offers, sales, and issuances of the securities described in Item 15(a) were exempt from registration under the Securities Act under either Rule 701, in that the transaction were under compensatory benefit plans and contracts relating to compensation, or under Section 4(a)(2) of the Securities Act in that the transactions were between an issuer and members of its senior executive management and did not involve any public offering within the meaning of Section 4(a)(2). The recipients of such securities were our employees, directors or consultants. Appropriate legends were affixed to the securities issued in these transactions.

The offers, sales, and issuances of the securities described in Item 15(b) were exempt from registration under the Securities Act in reliance upon Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder as transactions by an issuer not involving any public offering. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates issued in these transactions. All recipients had adequate access, through their relationships with us, to information about our company.

Item 16. Exhibits and Financial Statement Schedules

See the Exhibit Index attached to this registration statement, which Exhibit Index is incorporated herein by reference.

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the financial statements or notes thereto.

Item 17. Undertakings

(a) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant

of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered hereunder, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(b) The undersigned registrant hereby undertakes that:

(i) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(ii) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

EXHIBIT INDEX

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
1.1*	Form of Underwriting Agreement.				
3.1	Amended and Restated Certificate of Incorporation of the Registrant, as currently in effect.				X
3.2*	Amended and Restated Certificate of Incorporation of the Registrant, to be in effect upon the completion of this offering.				
3.3	Bylaws, as amended, of the Registrant, as currently in effect.				X
3.4*	Amended and Restated Bylaws of the Registrant, to be in effect upon the completion of this offering.				
4.1*	Reference is made to Exhibits 3.1 through 3.4				
4.2*	Specimen Common Stock Certificate of the Registrant.				
5.1*	Opinion of Latham & Watkins LLP.				
10.1*	Form of Indemnification Agreement for directors and executive officers, to be in effect upon the completion of this offering.				
10.2(a)+	2014 Stock Plan, as amended.				X
10.2(b)+	Form of Stock Option Agreement for Directors under 2014 Stock Plan.				X
10.2(c)+	Form of Stock Option Agreement for Employees under 2014 Stock Plan.				X
10.2(d)+	Form of Notice of Option Exercise under 2014 Stock Plan.				X
10.3*+	2021 Incentive Award Plan and related form agreements.				
10.4	Term Loan Agreement by and among the Registrant, the subsidiary guarantors from time to time party thereto, certain lenders, and CGR Servicing LLC, as administrative agent and collateral agent for the lenders, dated July 31, 2020.				X
10.5	Loan and Security Agreement by and between the Registrant and Silicon Valley Bank dated April 18, 2018, as amended by the First Amendment dated February 14, 2019, the Second Amendment dated December 20, 2019 and the Third Amendment dated August 3, 2020.				X
10.6+	Severance Agreement by and between the Registrant and Mark L. Hair, dated as of October 5, 2020.				X
10.7+	Change in Control Severance Agreement by and between the Registrant and Jaime A. Frias, dated as of October 5, 2020.				X
10.8+	Severance Agreement by and between the Registrant and Robert P. Jordheim, dated as of July 31, 2020.				X
10.9+	Offer Letter Agreement by and between the Registrant and Mark L. Hair, dated as of September 11, 2020.				X

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Date	Number	
10.10+	Offer Letter Agreement by and between the Registrant and Jaime A. Frias, dated as of June 8, 2017.				X
10.11*+	2021 Employee Stock Purchase Plan.				
10.12	Form of Product Development Royalty Agreement.				X
23.1	Consent of Independent Registered Public Accounting Firm.				X
23.2*	Consent of Latham & Watkins LLP (See Exhibit 5.1).				
24.1	Power of Attorney. Reference is made to the signature page to the Registration Statement.				

* To be filed by amendment.
\+ Indicates management contract or compensatory plan.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Ponte Vedra, State of Florida, on March 30, 2021.

Treace Medical Concepts, Inc.

By: /s/ John T. Treace
Name: John T. Treace
Title: Chief Executive Officer, Founder and Director

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints John T. Treace and Mark L. Hair, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement and any and all additional registration statements pursuant to Rule 462(b) of the Securities Act of 1933, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agents full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ John T. Treace John T. Treace	Chief Executive Officer, Founder and Director (Principal Executive Officer)	March 30, 2021
/s/ Mark Hair Mark L. Hair	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 30, 2021
/s/ James T. Treace James T. Treace	Chairman of the Board of Directors	March 30, 2021
/s/ John K. Bakewell John K. Bakewell	Director	March 30, 2021
/s/ F. Barry Bays F. Barry Bays	Director	March 30, 2021
/s/ Lawrence W. Hamilton Lawrence W. Hamilton	Director	March 30, 2021
/s/ Richard W. Mott Richard W. Mott	Director	March 30, 2021

Signature	Title	Date
/s/ Thomas E. Timbie Thomas E. Timbie	Director	March 30, 2021
/s/ John R. Treace John R. Treace	Director	March 30, 2021

Exhibit 3.1

STATE OF DELAWARE
CERTIFICATE OF CONVERSION
FROM A LIMITED LIABILITY COMPANY TO A
CORPORATION PURSUANT TO SECTION 265 OF THE
DELAWARE GENERAL CORPORATION LAW

1. The jurisdiction where the Limited Liability Company first formed is the State of Florida.

2. The jurisdiction immediately prior to filing this Certificate is the State of Florida.

3. The date the Limited Liability Company first formed is July 29, 2013.

4. The name of the Limited Liability Company immediately prior to filing this Certificate is Treace Medical Concepts, LLC.

5. The name of the Corporation as set forth in the Certificate of Incorporation is Treace Medical Concepts, Inc.

6. The effective date of the conversion of the Limited Liability Company and of incorporation of the Corporation shall be July 1, 2014.

IN WITNESS WHEREOF, the undersigned being duly authorized to sign on behalf of the converting Limited Liability Company have executed this Certificate on the 13th day of June, 2014.

By: /s/ John T. Treace
John T. Treace, President
Treace Medical Concepts, LLC

STATE OF DELAWARE
CERTIFICATE OF INCORPORATION OF
TREACE MEDICAL CONCEPTS, INC.
A STOCK CORPORATION

Article 1. Name

The name of this corporation is Treace Medical Concepts, Inc.

Article 2. Registered Agent and Office

The corporation's registered office in the State of Delaware is to be located at 1209 Orange Street, in the City of Wilmington, County of New Castle, Zip Code 19801. The registered agent in charge thereof is The Corporation Trust Company.

Article 3. Purpose

The purpose for which this corporation is formed is to design, manufacture and commercialize medical products and any other lawful purpose for which a corporation may be formed under Delaware law.

Article 4. Principal Office

The business address of the corporation's principal office is 3107 Sawgrass Village Circle, Ponte Vedra Beach, FL 32082.

Article 5. Effective Date; Duration

The effective date of incorporation of this corporation is July 1, 2014. The period of this corporation's duration is perpetual.

Article 6. Name and Address of Incorporator

The name and mailing address of the incorporator are as follows:

John T. Treace
3107 Sawgrass Village Circle
Ponte Vedra Beach, FL 32082

Article 7. Directors

7.1. Initial Directors

The number of directors constituting the initial board of directors is four. The names and addresses of the persons who are to serve as directors until the first annual meeting of the stockholders or until their successors are elected and qualified are:

Name	Address
John T. Treace	***
James T. Treace	***
F. Barry Bays	***
Thomas E. Timbie	***

7.2. Changes in Authorized Number of Directors

The authorized number of directors of the corporation shall be seven until changed by an amendment of this certificate of incorporation or by a bylaw duly adopted by the vote or written consent of the holders of a majority of the then outstanding shares of stock in the corporation.

7.3. Removal of Directors and Officers

Any officer elected or appointed by the board of directors, or by the Executive Committee, or by the stockholders, or any member of the Executive Committee, or of any other standing committee, or any director of this corporation may be removed at any time, with or without cause, in such manner as shall be provided in the bylaws of this corporation.

7.4. Specific Powers of Directors

(a) In furtherance and not in limitation of the powers conferred upon the board of directors by statute, the board of directors is expressly authorized, without any vote or other action by stockholders other than such as at the time shall be expressly required by statute or by the provisions of these articles of incorporation, as amended, or of the bylaw, to exercise all of the powers, rights and privileges of the corporation (whether expressed or implied in these articles or conferred by statute) and to do all acts and things which may be done by the corporation, including, without limiting the generality of the above, the right:

(i) Pursuant to a provision of the bylaw, by resolution adopted by a majority of the actual number of directors elected and qualified, to designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in that resolution or in the bylaw, shall have and exercise all the authority of the board of directors except as otherwise provided by law;

(ii) To make, alter, amend or repeal bylaws for the corporation;

(iii) To authorize the issuance from time to time of all or any shares of the corporation, now or in the future authorized, part paid receipts or allotment certificates in respect of any such shares, and any securities convertible into or exchangeable for any such shares (regardless of whether those shares, receipts, certificates or securities be unissued or issued and subsequently acquired by the corporation), in each case to such corporations, associations, partnerships, firms, individuals or others (without offering those shares or any part of them to the holders of any shares of the corporation of any class now or in the future authorized), and for such consideration (regardless of whether more or less than the par value of the shares), and on such terms as the board of directors from time to time in its discretion lawfully may determine;

(iv) From time to time to create and issue rights or options to subscribe for, purchase or otherwise acquire any shares of stock of the corporation of any class now or in the future authorized or any bonds or other obligations or securities of the corporation (without offering the same or any part of them to the holders of any shares of the corporation of any class now or in the future authorized);

(v) In furtherance and not in limitation of the provisions of the above subdivisions (iii) and (iv), from time to time to establish and amend plans for the distribution among or sale to any one or more of the officers or employees of the corporation, or any subsidiary of the corporation, of any shares of stock or other securities of the corporation of any class, or for the grant to any of such officers or employees of rights or options to subscribe for, purchase or otherwise acquire any such shares or other securities, without in any case offering those shares or any part of them to the holders of any shares of the corporation of any class now or in the future authorized; such distribution, sale or grant may be in addition to or partly in lieu of the compensation of any such officer or employee and may be made in consideration for or in recognition of services rendered by the officer or employee, or to provide the individual with an incentive to serve or to agree to serve the corporation or any subsidiary of the corporation, or otherwise as the board of directors may determine; and

(vi) To sell, lease, exchange, mortgage, pledge, or otherwise dispose of or encumber all or any part of the assets of the corporation unless and except to the extent otherwise expressly required by statute.

(b) The board of directors, in its discretion, may from time to time:

(i) Declare and pay dividends upon the authorized shares of stock of the corporation out of any assets of the corporation available for dividends, but dividends may be declared and paid upon shares issued as partly paid only upon the basis of the percentage of the consideration actually paid on those shares at the time of the declaration and payment;

(ii) Use and apply any of its assets available for dividends, subject to the provisions of clause 7.5(c) of these articles, in purchasing or acquiring any of the shares of stock of the corporation; and

(iii) Set apart out of its assets available for dividends such sum or sums as the board of directors may deem proper, as a reserve or reserves to meet contingencies, or for equalizing dividends, or for maintaining or increasing the property or business of the corporation, or for any other purpose it may deem conducive to the best interests of the corporation. The board of directors in its discretion at any time may increase, diminish or abolish any such reserve in the manner in which it was created.

7.5. Power to Issue Shares

The board of directors is expressly authorized to adopt, from time to time, a resolution or resolutions providing for the issue of preferred stock in one or more series, to fix the number of shares in each such series and to fix the designations and the powers, preferences and relative, participating, optional and other special rights and the qualifications, limitations and restrictions of such shares, of each such series.

The authority of the board of directors with respect to each such series shall include a determination of the following, which may vary as between the different series of preferred stock:

(a) The number of shares constituting the series and the distinctive designation of the series;

(b) The dividend rate on the shares of the series, the conditions and dates upon which dividends on such shares shall be payable, the extent, if any, to which dividends on such shares shall be cumulative, and the relative rights of preference, if any, of payment of dividends on such shares;

(c) Whether or not the shares of the series are redeemable and, if redeemable, the time or times during which they shall be redeemable and the amount per share payable on redemption of such shares, which amount may, but need not, vary according to the time and circumstances of such redemption;

(d) The amount payable in respect of the shares of the series, in the event of any liquidation, dissolution or winding up of this corporation, which amount may, but need not, vary according to the time or circumstances of such action, and the relative rights of preference, if any, of payment of such amount;

(e) Any requirement as to a sinking fund for the shares of the series, or any requirement as to the redemption, purchase or other retirement by this corporation of the shares of the series;

(f) The right, if any, to exchange or convert shares of the series into other securities or property, and the rate or basis, time, manner and condition of exchange or conversion;

(g) The voting rights, if any, to which the holders of shares of the series shall be entitled in addition to the voting rights provided by law; and

(h) Any other terms, conditions or provisions with respect to the series not inconsistent with the provisions of this Article or any resolution adopted by the board of directors pursuant to this Article.

7.6. Indemnification

(a) The corporation shall, to the full extent permitted under applicable law, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that [he/she] is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fee), judgments, fines and amounts paid in settlement actually and reasonably incurred by [him/her] in connection with such action, suit or proceeding if [he/she] acted in good faith and in a manner [he/she] reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe [his/her] conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which [he/she] reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that [his/her] conduct was unlawful.

(b) The corporation shall, to the full extent permitted under applicable law, indemnify any person who was or is a party or is threatened to be made a party to any threatened pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that [he/she] is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by [him/her] in connection with the defense or settlement of such action or suit if [he/she] acted in good faith and in a manner [he/she] reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of [his/her] duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such other court shall deem proper.

(c) To the extent that any person referred to in paragraphs (a) and (b) of this article has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to therein or in defense of any claim, issue or matter therein, [he/she] shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by [him/her] in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this article (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because [he/she] has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this article. Such determination shall be made (a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the stockholders.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that [he/she] is entitled to be indemnified by the corporation as provided in this article.

(f) The indemnification provided by this article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in [his/her] official capacity and as to action in another capacity while holding such office,

shall be interpreted so as to allow indemnification to the full extent permitted by applicable law, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against [him/her] and incurred by [him/her] in any such capacity, or arising out of [his/her] status as such, whether or not the corporation would have the power to indemnify [him/her] against such liability under the provisions of this Article 7.6.

(h) For the purposes of this article, references to “the corporation” include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as [he/she] would if [he/she] had served the resulting or surviving corporation in the same capacity.

Article 8. Capitalization

8.1. Number and Classes of Shares

The total number of shares of all classes of stock which the corporation shall have authority to issue is forty-two million (42,000,000), divided into forty-million (40,000,000) shares of Class A common stock at $0.001 par value each (which shares shall have voting power), one million (1,000,000) shares of Class B common stock at $0.001 par value each (which shares shall not have voting power), and one million (1,000,000) shares of Class A preferred stock, at $0.001 par value each.

The classes of stock shall be issuable in one or more series with such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights, and corresponding qualifications, limitations or restrictions, as shall be stated and expressed in this certificate of incorporation or any amendment to it, or in the resolution or resolutions providing for the issue of such stock, or series of stock, adopted, at any time and from time to time, by the board of directors of the corporation pursuant to the authority hereby expressly vested in the board of directors.

8.2. Reserved Shares

Such numbers of shares of common stock as may from time to time be required for such purpose shall be reserved for issuance: (i) upon conversion of any shares of preferred stock or any obligation of this corporation convertible into shares of common stock; (ii) upon exercise of any options or warrants to purchase shares of common stock; and (iii) upon grant of shares of common stock pursuant to any stock plan adopted by the corporation.

8.3. Amendment of Capital Provisions

This Article 8 can be amended only by the vote or written consent of the holders of a majority of the outstanding shares entitled to vote.

Article 9. Share Rights and Restrictions

9.1. Voting Rights

Except as otherwise expressly provided by the law of the State of Delaware or this certificate of incorporation or a resolution of the board of directors providing for the issue of a series of Class A preferred stock, the holders of the Class A common stock shall possess exclusive voting power for the election of directors and for all other purposes, including the right to vote on questions of merger, consolidation and the sale of substantially all the assets of the corporation. Every holder of record of Class A common stock entitled to vote shall be entitled to one vote for each share held.

9.2. Effect of Stockholders' Agreement

The rights of all shares of stock of the corporation shall be subject to the restrictions set forth in a stockholders' agreement to be executed by all stockholders of the corporation on July 1, 2014. All persons purchasing or otherwise receiving shares of stock in the corporation subsequent to the execution of such agreement shall, as a condition precedent to becoming stockholders of the corporation, become parties to such agreement. The certificates representing shares of stock of the corporation shall bear on their face the following legend so long as the above-mentioned stockholders' agreement remains in effect:

RESTRICTIONS ON SALE OR TRANSFER OF STOCK. This stock certificate and the shares represented thereby is issued and shall be held subject to those particular qualifications, limitations and restrictions concerning the sale or transfer of stock as set forth in the Stockholders' Agreement by and among the corporation and its stockholders dated July 1, 2014, which matters are hereby referred to and made a part hereof, to all of which the holder of this certificate assents.

Article 10. Stockholders

10.1. Amendment of Bylaws

The board of directors has the power to make, repeal, amend and alter the bylaws of the corporation, to the extent provided in the bylaws. However, the paramount power to repeal, amend and alter the bylaws, or to adopt new bylaws, is vested in the stockholders of the corporation's Class A common stock. This power may be exercised by a vote of a majority of such stockholders present at any annual or special meeting of the stockholders. Moreover, the directors have no power to suspend, repeal, amend or otherwise alter any bylaw or portion of any bylaw so enacted by the Class A common stock stockholders, unless the stockholders, in enacting any bylaw or portion of any bylaw, otherwise provide.

10.2. Personal Liability of Stockholders

The private property of the stockholders of this corporation is not subject to the payment of corporate debts, except to the extent of any unpaid balance of subscription for shares.

10.3. S Corporation Election

In the event the stockholders of the corporation ever elect to be taxed pursuant to the S Corporation provisions of the Internal Revenue Code of 1986, as amended ("Election"), then to the extent allowed by law, the corporation and the board of directors will each year, on or before the due date(s) for estimated payment(s) of federal and applicable state and local income taxes, pay to the stockholders, by way of salary, bonus, dividend or otherwise, sufficient money for each Stockholder to pay the federal and applicable state and local income taxes due for the applicable time periods. In the event of an Election, neither any Stockholder nor any of the officers of the corporation may, without the prior written consent of the record holders of more than fifty percent (50%) of the then outstanding shares of stock in the corporation, make or effect any transfer of any shares of stock in the corporation that would cause a termination or invalidation of the Election.

10.4. Actions by Written Consent

Whenever the vote of stockholders at a meeting of stockholders is required or permitted to be taken for or in connection with any corporate action by any provision of the corporation law of the State of Delaware, or of this certificate of incorporation or of the bylaws authorized or permitted by that law, the meeting and vote of stockholders may be dispensed with if the proposed corporate action is taken with the written consent of the holders of stock having a majority of the total number of votes which might have been cast for or in connection with that action if a meeting were held; provided that in no case shall the written consent be by the holders of stock having less than the minimum percentage of the vote required by statute for that action, and provided that prompt notice is given to all stockholders of the taking of corporate action without a meeting and by less than unanimous written consent.

Article 11. Amendments

The corporation shall be deemed, for all purposes, to have reserved the right to amend, alter, change or repeal any provision contained in its certificate of incorporation, as amended, to the extent and in the manner now or in the future permitted or prescribed by statute, and all rights conferred in these articles upon stockholders are granted subject to that reservation.

I, the undersigned, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do hereby certify that the facts stated herein are true, and I have accordingly hereunto set my hand this 13h day of June, A.D. 2014.

/s/ John T. Treace
John T. Treace

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
TREACE MEDICAL CONCEPTS, INC.

The undersigned, being an authorized officer of Treace Medical Concepts, Inc. (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY:

FIRST: That the Board of Directors (the "Board") of the Corporation by unanimous written consent of its members, filed with the minutes of the Board, adopted a resolution proposing and declaring advisable the following amendment to the Certificate of Incorporation of the Corporation:

> RESOLVED, that the Certificate of Incorporation of Treace Medical Concepts, Inc. be amended by deleting the first paragraph of **Article 8. Capitalization** in its entirety and substituting in lieu thereof a new first paragraph of Article 8 to read as follows:
>
> The total number of shares of all classes of stock which the Corporation shall have authority to issue is Fifty-Six Million (56,000,000), divided into Fifty Million (50,000,000) shares of Class A common stock at $0.001 par value each (which shares shall have voting power), One Million (1,000,000) shares of Class B common stock at $0.001 par value each (which shares shall not have voting power), and Five Million (5,000,000) shares of Class A preferred stock, at $0.001 par value each.

SECOND: That, in lieu of a meeting and vote of stockholders, the stockholders have written consent to said amendment in accordance with the provisions of Section 228 of the General Corporation Law of the State of Delaware and written notice of the adoption of the amendment has been given as provided in Section 228 of the General Corporation Law of the State of Delaware to every stockholder entitled to such notice.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 242 and 228 of the General Corporation Law of the State of Delaware.

FOURTH: That this Certificate of Amendment to the Certificate of Incorporation shall be effective on March 20, 2017.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment this 20th day of March, 2017.

TREACE MEDICAL CONCEPTS, INC.

By: /s/ Jaime A. Frias
Print: Jaime A. Frias
Its: Secretary

CERTIFICATE OF DESIGNATION OF

SERIES A CONVERTIBLE PREFERRED STOCK OF

TREACE MEDICAL CONCEPTS, INC.

Pursuant to Section 151 of the General Corporation Law of the State of Delaware, **Treace Medical Concepts, Inc.**, a corporation organized and existing under the General Corporation Law of the State of Delaware (the "**Corporation**"), in accordance with the provisions of Section 103 thereof, does hereby submit the following:

WHEREAS, the Certificate of Incorporation of the Corporation, as amended (the "**Certificate of Incorporation**") authorizes the issuance of up to 5,000,000 shares of Class A preferred stock, par value $0.001 per share, of the Corporation ("**Preferred Stock**") in one or more series, and expressly vests in the Board of Directors of the Corporation (the "**Board**") the authority to issue such Preferred Stock, or series of Preferred Stock, with such voting powers, full or limited, and such designations, preferences and relative, participating, optional or other special rights, and corresponding qualifications, limitations or restrictions, as stated and expressed in any amendment to the Certificate of Incorporation, or in any resolutions providing for the issuance of such Preferred Stock or series of Preferred Stock; and

WHEREAS, it is the desire of the Board to establish and fix the number of shares to be included in a new series of Preferred Stock and the designation, preferences, rights, qualifications, limitations and restrictions of the shares of such new series; and now therefore, it hereby is

RESOLVED, that the Board hereby provides for the issuance of a series of Preferred Stock and, in this Certificate of Designation (the "**Certificate of Designation**"), establishes, fixes, states and expresses the designations, preferences, rights, qualifications, limitations and restrictions of such series of Class A Preferred Stock as follows:

1. Designation. There will be a series of such Class A Preferred Stock that will be designated as "Series A Convertible Preferred Stock" (the "**Series A Preferred Stock**") and the number of Shares constituting such series will be 5,000,000. The preferences, rights, qualifications, limitations and restrictions of the Series A Preferred Stock will be as set forth herein.

2. Defined Terms. For purposes hereof, the following terms will have the following meanings:

"**Automatic Conversion Event**" means any of the following events: (a) a Liquidation; (b) a Change of Control Transaction; (c) an Initial Public Offering; or (d) the affirmative vote of the holders of sixty percent (60%) of the Shares to approve the conversion of all the Shares.

"**Board**" has the meaning set forth in the Recitals.

"**Certificate of Designation**" has the meaning set forth in the Recitals.

"**Certificate of Incorporation**" has the meaning set forth in the Recitals.

"**Change of Control Transaction**" means the occurrence after the Issuance Date of any of the following: (a) an acquisition by a Person or "group" (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of

capital stock of the Corporation, by contract or otherwise) of more than 50% of the voting securities of the Corporation (other than by means of conversion or exercise of Preferred Stock), (b) the Corporation merges into or consolidates with any other Person, or any Person merges into or consolidates with the Corporation and, after giving effect to such transaction, the stockholders of the Corporation immediately prior to such transaction own less than 50% of the aggregate voting power of the Corporation or the successor entity of such transaction, (c) the Corporation sells or transfers all or substantially all of its assets to another Person and the stockholders of the Corporation immediately prior to such transaction own less than 50% of the aggregate voting power of the acquiring entity immediately after the transaction, or (d) the execution by the Corporation of an agreement to which the Corporation is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (c) above.

"**Class A Common Stock**" means the Class A common stock, par value $0.001 per share, of the Corporation. "**Class B Common Stock**" means the Class B common stock, par value $0.001 per share, of the Corporation. The Class A Common Stock and Class B Common Stock are sometimes referred to collectively as the "**Common Stock**".

"**Conversion Price**" will initially be $1.60 per Share and will be subject to adjustment for stock splits, stock dividends, recapitalizations and similar transactions as provided in **Section 5.1(d)**.

"**Corporation**" has the meaning set forth in the Preamble.

"**Dividend Payment Date**" has the meaning set forth in **Section 3.1**.

"**Equivalent Dividend Payment**" has the meaning set forth in **Section 3.2**.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations thereunder, which will be in effect at the time.

"**Initial Public Offering**" means a fully underwritten, firm commitment public offering pursuant to an effective registration statement under the Securities Act covering the offer and sale by the Corporation of its capital stock in which the aggregate net proceeds to the Corporation, after deducting underwriters' discounts and commissions, equals or exceeds $40,000,000.

"**Issuance Date**" means, for any Share of Series A Preferred Stock, the date on which the Corporation initially issues such Share (without regard to any subsequent transfer of such Share or reissuance of the certificate(s) representing such Share).

"**Liquidation**" means a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

"Original Issue Price" means $1.60.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"**Preferred Stock**" has the meaning set forth in the Recitals.

"**Securities Act**" means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which will be in effect at the time.

"**Series A Preferred Stock**" has the meaning set forth in **Section 1**.

"**Share**" means a share of Series A Preferred Stock.

"**Stockholders' Agreement**" means the Amended and Restated Stockholders' Agreement dated as of December 31, 2014, or any successor agreement thereto, between the Corporation and any Person who acquires or receives the right to acquire any shares of capital stock of the Company.

"**Subsidiary**" means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors or comparable managers are owned, directly or indirectly, by the first Person.

3. Dividends.

3.1 Accrual and Payment of Dividends. From and after the Issuance Date of any Share, dividends on such Share will accrue, whether or not declared by the Board and whether or not there are funds legally available for the payment of dividends, on a daily basis in arrears at the rate of 8% *per annum* on the Original Issue Price. All accrued dividends on any Share will be paid only when, as and if declared by the Board out of funds legally available therefor or upon a conversion of the Series A Preferred Stock in accordance with the provisions of **Section 5.1(c)**; *provided*, that to the extent not paid on the last day of December of each calendar year (each such date, a "**Dividend Payment Date**"), all accrued dividends on any share will accumulate on the applicable Dividend Payment Date whether or not declared by the Board and will remain accumulated dividends until paid pursuant hereto or converted pursuant to **Section 5**. All accrued dividends on the Shares will be fully declared and paid before any dividends are declared and paid, or any other distributions or redemptions are made, on any Common Stock or any other Series of Preferred Stock, other than to (a) declare or pay any dividend or distribution payable on the Common Stock in shares of Common Stock, (b) repurchase Common Stock held by employees or consultants of the Corporation upon termination of their employment or services pursuant to agreements providing for such repurchase, or (c) repurchase Common Stock held by stockholders upon exercise of rights of first refusal or other repurchase rights set forth in the Stockholders' Agreement.

3.2 In-kind Payment. Where the Board declares dividends on the Shares to be paid in kind, such dividend will be paid in shares of Class A **Common Stock in accordance with the following calculations and procedures unless otherwise determined by the Board. As of each December 31 on which any Shares remain outstanding, the Corporation will determine the value of the dividend payment due** (the "**Equivalent Dividend Payment**") calculated **at** 8% *per annum* on the Original Issue Price for that calendar year (or for the year ended December 31, 2017, for the period between the Issuance Date and December 31, 2017). The Corporation will engage an independent appraiser to prepare a pre-money valuation of the Corporation's Class A Common Stock as of that December 31 and determine a per share valuation. The Equivalent Dividend Payment will be divided by the per share value determined by the independent appraiser to determine the number of

shares of Class A Common Stock to be issued to each holder of Shares as payment of the dividends due on such Shares. As an example and by way of clarification, assume (a) a holder purchased 62,500 Shares at the Original Issue Price of $1.60 per share for a total investment of $100,000, (b) the Shares had been issued and outstanding for a full calendar year and (c) the independent valuation was set at $2.00 per share for that year, then the Equivalent Dividend Payment would be $8,000 ((62,500 X $1.60) X 8%), and the number of shares of Class A Common Stock issued as an in-kind dividend payment would be 4,000 ($8,000 ÷ $2.00).

3.3 Partial Dividend Payments. Except as otherwise provided herein, if at any time the Corporation pays less than the total amount of dividends then accrued and accumulated with respect to the Series A Preferred Stock, such payment will be distributed pro rata among the holders thereof based upon the aggregate accrued and accumulated but unpaid dividends on the Shares held by each such holder.

4. Voting. Each holder of outstanding Shares of Series A Preferred Stock will be entitled to vote with holders of outstanding shares of the Class A Common Stock, voting together as a single class, with respect to any and all matters presented to the stockholders of the Corporation for their action or consideration (whether at a meeting of stockholders of the Corporation, by written action of stockholders in lieu of a meeting or otherwise), except as provided by law. In any such vote, each Share of Series A Preferred Stock will be entitled to that number of votes equal to the number of shares of Class A Common Stock into which the Share is convertible pursuant to **Section 5** herein as of the record date for such vote or written consent or, if there is no specified record date, as of the date of such vote or written consent. Each holder of outstanding Shares of Series A Preferred Stock will be entitled to notice of all stockholder meetings (or requests for written consent) in accordance with the Corporation's bylaws.

5. Conversion.

5.1 Right to Convert; Automatic Conversion.

(a) Right to Convert. Subject to the provisions of this **Section 5**, at any time and from time to time on or after the Issuance Date, any holder of Series A Preferred Stock will have the right by written election to the Corporation to convert any or all outstanding Shares of Series A Preferred Stock (including any fraction of a share) into that number of shares of fully paid and nonassessable Class A Common Stock computed by multiplying the number of shares of Series A Preferred Stock being converted by a fraction, the numerator of which is Original Issue Price and the denominator of which is the Conversion Price.

(b) Automatic Conversion. Subject to the provisions of this **Section 5**, in connection with, and on the closing, consummation or effectiveness of, an Automatic Conversion Event, all of the outstanding Shares of Series A Preferred Stock (including any fraction of a Share) will automatically convert into that number of shares of fully paid and nonassessable Class A Common Stock computed by multiplying the number of shares of Series A Preferred Stock being converted by a fraction, the numerator of which is the Original Issue Price and the denominator of which is the Conversion Price then in effect. All of the outstanding Shares of Series A Preferred Stock will

be deemed to have been converted into shares of Class A Common Stock as of immediately prior to the closing or consummation or effectiveness of the Automatic Conversion Event.

(c) Payment of Dividends on Conversion. In addition, upon conversion, the Corporation will pay all accrued and unpaid dividends on such converted shares of Series A Preferred Stock (a) in cash (to the extent such dividends may be paid solely out of the Corporation's retained earnings legally available for the payment of dividends), or (b) upon the election of the Board or the holder of Series A Preferred Stock to receive payment of the dividends in kind, by issuing to the holder thereof such number of additional shares of Class A Common Stock as will equal the quotient of the accrued and unpaid dividends on the Series A Preferred Stock with respect to the converted shares divided by the most recent per share value determined by an independent appraiser. As an example and by way of clarification, assume (a) a holder purchased 62,500 Shares at the Original Issue Price of $1.60 per share for a total investment of $100,000, (b) the Board had not declared a dividend for two full calendar years, (c) the most recent independent valuation was set at $2.00 per share for Class A Common Stock, (d) no adjustment of the Conversion Price had occurred under Section 5.1(d), and (e) the holder elects to convert under Section 5.1(a), then the holder's Shares would convert into (1) 62,500 shares of Common Stock under Section 5.1(a) and (2) the accrued and unpaid dividends of $16,000 ((62,500 X $1.60) X 8% X 2 years) would convert into 8,000 shares ($16,000 of accrued and unpaid dividends ÷ $2.00 per most recent independent appraisal) of Common Stock under this Section 5.1(c).

(d) Adjustments for Stock Splits and Combinations. In the event of any split, stock dividend, subdivision, combination or reclassification of shares of Common Stock, or other recapitalization of the Corporation, having the effect of increasing or decreasing the number of shares of issued and outstanding Class A Common Stock held by each holder thereof, the Conversion Price will be adjusted proportionately immediately thereafter. The Board (or a committee of the Board) will have the authority to determine the proportionate adjustment of the Conversion Price. Promptly following any adjustment of the Conversion Price, the Corporation will send written notice thereof to all holders of Series A Preferred Stock, which notice will state the Conversion Price resulting from such adjustment and the increase or decrease, if any, in the number of shares of Class A Common Stock issuable upon conversion of all shares of Series A Preferred Stock held by each such holder, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

5.2 Procedures for Conversion; Effect of Conversion.

(a) Procedures for Holder Conversion. In order to effectuate a conversion of Shares of Series A Preferred Stock pursuant to **Section 5.1(a)**, a holder will (a) submit a written election to the Corporation that such holder elects to convert Shares, the number of Shares elected to be converted, (b) surrender, along with such written election, to the Corporation the certificate or certificates representing the Shares being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto) or, in the event the certificate or certificates are lost, stolen or missing, accompanied by an affidavit of loss executed by the holder, and (c) designate the name(s) in which the certificates for the Class A Common Stock should be issued. The conversion of such Shares hereunder will be deemed effective as of the date of surrender of such Series A Preferred Stock certificate or certificates or delivery of such

affidavit of loss. Upon the receipt by the Corporation of a written election and the surrender of such certificate(s) and accompanying materials, the Corporation will as promptly as practicable (but in any event within ten (10) days thereafter) deliver to the relevant holder (a) a certificate in such holder's name (or the name of such holder's designee as stated in the written election) for the number of shares of Class A Common Stock (including any fractional share) to which such holder will be entitled upon conversion of the applicable Shares as calculated pursuant to **Section 5.1(a)** and, if applicable (b) a certificate in such holder's (or the name of such holder's designee as stated in the written election) for the number of Shares of Series A Preferred Stock (including any fractional share) represented by the certificate or certificates delivered to the Corporation for conversion but otherwise not elected to be converted pursuant to the written election.

(b) Procedures for Automatic Conversion.

(i) Notice Requirement and Waiting Period for Liquidation. If the Automatic Conversion Event is a Liquidation, the Corporation will, within ten (10) days of the date the Board approves such Liquidation, or no later than twenty (20) days of any stockholders' meeting called to approve such Liquidation, or within twenty (20) days of the commencement of any involuntary proceeding, whichever is earlier, give each holder of Shares of Series A Preferred Stock written notice of the proposed Board or stockholder action on the Liquidation or the involuntary proceeding, as the case may be. Such written notice will describe the material terms and conditions of such proposed action, including a description of the stock, cash and property to be received by the holders of Shares upon consummation of the proposed action and the date of delivery thereof. If any material change in the facts set forth in the initial notice will occur, the Corporation will promptly give written notice to each holder of Shares of such material change. The Corporation will not consummate any voluntary Liquidation of the Corporation before the expiration of thirty (30) days after the mailing of the initial notice or ten (10) days after the mailing of any subsequent written notice, whichever is later; *provided*, that any such period may be shortened upon the written consent of the holders of all the outstanding Shares.

(ii) Notice Requirement for Change in Control. In connection with a Change of Control Transaction, the Corporation will take such actions as are necessary to give effect to the provisions of **Section 5**, including, without limitation, (i) in the case of a Change of Control structured as a merger, consolidation or similar reorganization, causing the definitive agreement relating to such transaction to provide for a rate at which the Shares and Common Stock are converted into or exchanged for cash, new securities or other property, or (ii) in the case of a Change of Control structured as an asset sale, as promptly as practicable following such transaction, either dissolving the Corporation and distributing the assets of the Corporation in accordance with applicable law and, in the case of both (i) and (ii), giving effect to the provisions of this **Section 5**. The Corporation will promptly provide to the holders of Shares of Series A Preferred Stock such information concerning the terms of such Change of Control, the value of the assets of the Corporation as may reasonably be requested by the holders of Series A Preferred Stock, and the date that the Shares will be converted into the Class A Common Stock.

(iii) Notice Requirement for an Initial Public Offering. The Corporation will notify the holders of Shares of the Corporation's plans to commence an Initial Public Offering no later than the date that the Corporation announces such plans to the public. In addition, as promptly as practicable following such Initial Public Offering (but in any event within five (5) days thereafter), the Corporation will send each holder of Shares of Series A Preferred Stock written notice of the closing of the Initial Public Offering.

(iv) Notice Requirements upon Majority Vote. If a majority of the holders of the Shares vote to approve the automatic conversion of the Shares into Class A Common Stock, the Corporation will promptly provide to the holders of Shares of Series A Preferred Stock notice of such vote by the holders and the date established for the conversion to be effective.

(v) Conversion Procedures. Upon receiving the notices set forth in **Sections 5.2(b)(i)** through **(iv)** with respect to an Automatic Conversion Event, the holder of the Shares will (i) surrender to the Corporation the certificate or certificates representing the Shares being converted, duly assigned or endorsed for transfer to the Corporation (or accompanied by duly executed stock powers relating thereto) or, in the event the certificate or certificates are lost, stolen or missing, accompanied by an affidavit of loss executed by the holder, and (ii), if applicable, designate the name(s) in which the certificates for the Class A Common Stock should be issued. Upon the surrender of such certificate(s) and accompanying materials, the Corporation will as promptly as practicable (but in any event within ten (10) days thereafter) deliver to the relevant holder a certificate in such holder's name (or the name of such holder's designee as stated in the written election) for the number of shares of Class A Common Stock (including any fractional share) to which such holder will be entitled upon conversion of the applicable Shares. If the holder fails to surrender to the Corporation the certificate or certificates representing the Shares being converted, the Corporation may nevertheless effectuate the actions necessary to convert the Shares, including but not limited to cancelling and/or endorsing the certificates for the Shares and issuing the appropriate number of shares of Class A Common Stock to the holder. In any event, in connection with an Automatic Conversion Event, the conversion will be deemed to have occurred immediately before the closing, consummation or effectiveness of the Automatic Conversion Event and the holder entitled to receive the shares of Class A Common Stock issuable upon such conversion will be treated for all purposes as the record holder of the Class A Common Stock.

(c) Effect of Conversion. All Shares of Series A Preferred Stock converted as provided in this **Section 5.2** will no longer be deemed outstanding as of the effective time of the applicable conversion and all rights with respect to such Shares will immediately cease and terminate as of such time, other than the right of the holder to receive shares of Class A Common Stock and payment in lieu of any fraction of a Share in exchange therefor.

5.3 Reservation of Stock. The Corporation will at all times when any Shares of Series A Preferred Stock are outstanding reserve and keep available out of its authorized but unissued shares of capital stock, solely for the purpose of issuance upon the conversion of the Series A Preferred Stock, such number of shares of Class A Common Stock issuable upon the conversion of all

outstanding Series A Preferred Stock pursuant to this **Section 5**, taking into account any adjustment to such number of shares so issuable in accordance with **Section 5.1(d)** hereof. The Corporation will take all such actions as may be necessary to assure that all such shares of Class A Common Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Class A Common Stock may be listed (except for official notice of issuance which will be immediately delivered by the Corporation upon each such issuance). The Corporation will not close its books against the transfer of any of its capital stock in any manner which would prevent the timely conversion of the Shares of Series A Preferred Stock.

5.4 No Charge or Payment. The issuance of certificates for shares of Class A Common Stock upon conversion of Shares of Series A Preferred Stock pursuant to **Section 5.1** will be made without payment of additional consideration by, or other charge or cost to, the holder in respect thereof.

5.5 Fully Paid Shares Issued upon Conversion. All shares of Class A Common Stock issued by the Corporation upon conversion of the Shares of Series A Preferred Stock will be duly and validly issued, fully paid and nonassessable, free and clear of all taxes, liens, charges and encumbrances with respect to the issuance thereof.

6. No Reissuance of Series A Preferred Stock. Any Shares of Series A Preferred Stock redeemed, converted or otherwise acquired by the Corporation or any Subsidiary will be cancelled and retired as authorized and issued shares of capital stock of the Corporation and no such Shares will thereafter be reissued, sold or transferred.

7. Notices.

7.1 Holders' Entitlement to Notices of Record Dates and other Matters. In the event (i) that the Corporation will take a record of the holders of its Class A Common Stock (or other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or (ii) of any capital reorganization of the Corporation, any reclassification of the Class A Common Stock of the Corporation, any consolidation or merger of the Corporation with or into another Person, or sale of all or substantially all of the Corporation's assets to another Person; or (iii) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation; then, and in each such case, the Corporation will send or cause to be sent to each holder of record of Series A Preferred Stock at the address specified for such holder in the books and records of the Corporation (or at such other address as may be provided to the Corporation in writing by such holder) at least twenty (20) days prior to the applicable record date or the applicable expected effective date, as the case may be, for the event, a written notice specifying, as the case may be, (a) the record date for such dividend, distribution, meeting or consent or other right or action, and a description of such dividend, distribution or other right or action to be taken at such meeting or by written consent, or (b) the effective date on which such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up is proposed to take place, and the date, if any is to be fixed,

as of which the books of the Corporation will close or a record will be taken with respect to which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon conversion of the Series A Preferred Stock) will be entitled to exchange their shares of Class A Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Series A Preferred Stock and the Class A Common Stock.

7.2 Notice Procedures. Except as otherwise provided herein, all notices, requests, consents, claims, demands, waivers and other communications hereunder will be in writing and will be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent (a) to the Corporation, at its principal executive offices and (b) to any stockholder, at such holder's address at it appears in the stock records of the Corporation (or at such other address for a stockholder as will be specified in a notice given in accordance with this **Section 7**).

8. Amendment and Waiver. No provision of this Certificate of Designation may be amended, modified or waived except by an instrument in writing executed by the Corporation and the holders of a majority of the Series A Preferred Stock, and any such written amendment, modification or waiver will be binding upon the Corporation and each holder of a Share of Series A Preferred Stock. Any delay or failure by the Corporation or a holder of Shares to enforce any provision of this Certificate of Designation will not operate or be construed to be a waiver of any future enforcement of that provision or any other provision or a waiver by any other holder.

9. Application of Stockholders' Agreement. The Shares will be subject to the terms of any Stockholders' Agreement applicable generally to shares of the Class A Common Stock, and each holder acquiring any Shares will join in and become a party to such Stockholders' Agreement as a condition to being issued any Shares of Series A Preferred Stock.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Certificate of Designation is executed on behalf of the Corporation by its Secretary this 21st day of March, 2017.

TREACE MEDICAL CONCEPTS, INC.

By: /s/ Jaime A. Frias
Name: Jaime A. Frias
Title: Secretary

CERTIFICATE OF AMENDMENT
TO THE CERTIFICATE OF
INCORPORATION OF

TREACE MEDICAL CONCEPTS, INC.

Treace Medical Concepts, Inc. (the "**Company**"), a corporation organized and existing under and by virtue of the Delaware General Corporation Law, hereby certifies as follows:

1. The name of the Company is Treace Medical Concepts, Inc., and that this corporation was originally incorporated pursuant to the Delaware General Corporation Law effective on July 1, 2014 under the name Treace Medical Concepts, Inc. pursuant to a Certificate of Incorporation filed with the Secretary of State of Delaware on June 13, 2014.

2. This Certificate of Amendment to the Company's Certificate of Incorporation has been duly adopted and approved by the Board of Directors of the Company, acting in accordance with the provisions of Sections 141 and 242 of the Delaware General Corporation Law, and the Company's stockholders have given their written consent in accordance with Section 228 of the Delaware General Corporation Law.

3. Article Seven Subsection 7.2 of the Certificate of Incorporation is hereby amended to read in its entirety as follows:

"7.2. Changes in Authorized Number of Directors

Subject to any additional vote required by the Certificate of Incorporation, the number of directors of the corporation shall be determined in the manner set forth in the bylaws of the corporation. Each director shall be entitled to one vote on each matter presented to the Board of Directors."

4. All other provisions of the Certificate of Incorporation shall remain in full force and effect.

[*Signature page follows*]

IN WITNESS WHEREOF, this Certificate of Amendment to the Certificate of Incorporation has been signed this 16th day of November, 2020.

TREACE MEDICAL CONCEPTS, INC.

By: /s/ John T. Treace
Name: John T. Treace
Title: Chief Executive Officer

BYLAWS OF TREACE MEDICAL CONCEPTS, INC.

Article I. Offices

The registered office of the corporation, as required by the Delaware General Corporation Law, in the State of Delaware shall be in the City of Wilmington, County of New Castle, and the address of the registered office may be changed from time to time by the board of directors. The corporation shall also have and maintain an office or principal place of business at such place as may be fixed by the board of directors, and may also have offices at such other places, both within and without the State of Delaware as the board of directors may from time to time determine or the business of the corporation may require.

Article II. Stockholders

1. Annual Meeting

The annual meeting of the stockholders shall be held in September of each year, beginning with the year 2015, on a day fixed by the board of directors and at the hour of 10:00 in the morning, or at such other time as shall be fixed by the board of directors, for the purpose of electing directors and for the transaction of such other business as may lawfully come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Florida, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the stockholders, or at any adjournment of such, the board of directors shall cause the election to be held at a special meeting of the stockholders as soon thereafter as conveniently may be.

2. Special Meetings

Special meetings of the stockholders of the corporation may be called, for any purpose or purposes, unless otherwise prescribed by statute, by the Chief Executive Officer or the board of directors pursuant to a resolution adopted by a majority of the total number of authorized directors (whether or not there exist any vacancies in previously authorized directorships at the time any such resolution is presented to the board of directors for adoption). In addition, when required by applicable law, a special meeting of stockholders shall be called by the Chief Executive Officer at the request of stockholders holding 51% or more of the outstanding voting shares.

3. Place of Meeting

Meetings of the stockholders of the corporation shall be held at such place, either within or without the State of Florida, as may be designated from time to time by the board of directors, or, if not so designated, then at the principal office of the corporation in the State of Florida.

4. Notice of Meeting

Except as otherwise provided by law or the Certificate of Incorporation, written notice of each meeting of stockholders shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, date and hour and, in the case of a special meeting, purpose or purposes of the meeting. Any such notice shall be given in writing, timely and duly deposited in the United States mail, postage prepaid, and addressed to his last known post office address as shown by the stock record of the corporation or its transfer agent.

Notice of the time, place and purpose of any meeting of stockholders may be waived in writing, signed by the person entitled to notice thereof, either before or after such meeting, and will be waived by any stockholder by his attendance thereat in person or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

5. Closing of Transfer Books or Fixing of Record Date

For the purposes of determining stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment of such, or stockholders entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other proper purpose, the board of directors of the corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, five days. If the stock transfer books shall be closed for the purpose of determining stockholders entitled to notice of or to vote at a meeting of stockholders, such books shall be closed for at least two days immediately preceding such meeting. In lieu of closing the stock transfer books, the board of directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which record date shall, subject to applicable law, not be more than sixty nor less than ten days before the date of such meeting. If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; PROVIDED, HOWEVER, that the board of directors may fix a new record date for the adjourned meeting.

6. Voting Record

The officer or agent having charge of the stock transfer books shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, during ordinary business hours, for a period of at least five days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not specified, at the place where the meeting is to be held. The list shall be produced and kept at the time and place of meeting during the whole time thereof and may be inspected by any stockholder who is present.

7. Quorum

The holders of a majority of the shares entitled to vote at any meeting of stockholders, present in person or represented by proxy, shall constitute a quorum for the transaction of any business at any such meeting, provided that when a specified item of business is required to be voted on by a class or series (if the corporation shall then have outstanding shares of more than one class or series) voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum (as to such class or series) for the transaction of such item of business. When a quorum is once present to organize a meeting of stockholders, it is not broken by the subsequent withdrawal of any stockholders or their proxies. The holders of a majority of shares present in person or represented by proxy at any meeting of stockholders, including an adjourned meeting, whether or not a quorum is present, may adjourn such meeting to another time and place. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken and at the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting.

8. Proxies

Every person entitled to vote at any meeting of stockholders shall have the right to do so either in person or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after sixty days from its date of creation unless the proxy provides for a longer period.

9. Voting of Shares

Each outstanding share entitled to vote shall be entitled to one vote upon each matter submitted to a vote at a meeting of stockholders.

10. Informal Action by Stockholders

Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of the stockholders, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

Article III. Board of Directors

1. General Standards of Care

(a) Each director shall perform the duties of a director, including duties as a member of any committee of the Board on which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing his or her duties, each director shall be entitled, so long as in any such case he or she acts in good faith after reasonable inquiry when the need for it is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted, to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by the following:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants, or other persons as to matters that the director believes to be within such person’s professional or expert competence; or

(3) A committee of the Board on which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence.

(c) A person who performs the duties of director in accordance with paragraphs (a) and (b), above, shall have no liability based on any alleged failure to discharge the person’s obligation as a director.

2. Number, Tenure, and Qualifications

The authorized number of directors of the corporation shall be seven or as otherwise fixed in accordance with the Certificate of Incorporation. Directors need not be residents of the State of Florida or stockholders unless so required by the Certificate of Incorporation. All directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these bylaws.

3. Regular Meetings

A regular meeting of the board of directors shall be held without other notice than this bylaw immediately after, and at the same place as, the annual meeting of stockholders. The board of directors may provide, by resolution, the time and place, either within or without the State of Florida, for the holding of additional regular meetings without other notice than such resolution.

The annual meeting of the board of directors shall be held immediately before or after the annual meeting of stockholders and at the place where such meeting is held. No notice of an annual meeting of the board of directors shall be necessary and such meeting shall be held for the purpose of electing officers and transacting such other business as may lawfully come before it. Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the board of directors may be held at any time or date and at any place within or without the State of Florida that has been designated by the board of directors and publicized among all directors. No formal notice shall be required for regular meetings of the board of directors.

4. Special Meetings

Unless otherwise restricted by the Certificate of Incorporation, special meetings of the board of directors may be held at any time and place within or without the State of Florida whenever called by the Chairman of the Board, the Chief Executive Officer or any two of the directors.

5. Notice

Notice of the time and place of all meetings of the board of directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least 24 hours before the date and time of the meeting, or sent in writing to each director by first class mail, charges prepaid, at least five days before the date of the meeting. Notice of any meeting may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

6. Quorum

A majority of the number of directors fixed by section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the board of directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Unless the Certificate of Incorporation requires a greater number and except as otherwise provided in these bylaws, a quorum of the board of directors shall consist of a majority of the exact number of directors fixed from time to time by the board of directors in accordance with the Certificate of Incorporation; PROVIDED, HOWEVER, at any meeting whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the board of directors, without notice other than by announcement at the meeting.

Any member of the board of directors, or of any committee thereof, may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

7. Manner of Acting

At each meeting of the board of directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these bylaws.

8. Action without Meeting

Unless otherwise restricted by the Certificate of Incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting, if all members of the board of directors or committee, as the case may be, consent thereto in writing, and such writing or writings are filed with the minutes of proceedings of the board of directors or committee.

9. Vacancies

Unless otherwise provided in the Certificate of Incorporation, any vacancies on the board of directors resulting from death, resignation, disqualification, removal or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the board of directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the board of directors. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the board of directors shall be deemed to exist under this bylaw in the case of the death, removal or resignation of any director.

10. Compensation

Directors shall be entitled to such compensation for their services as may be approved by the board of directors, including, if so approved, by resolution of the board of directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the board of directors and at any meeting of a committee of the board of directors. Nothing herein contained shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

11. Presumption of Assent

A director of the corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless *[his/her]* dissent shall be entered in the minutes of the meeting or unless *[he/she]* shall file *[his/her]* written dissent to such action with the person acting as the secretary of the meeting before the adjournment of such or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

12. Transactions with Corporation and Conflicts of Interest

No contract or other transaction between the corporation and one or more of its directors or between the corporation or any other corporation, partnership, voluntary association, trust, or other organization of which any of its directors is a director or officer or in which he or she has any financial interest shall be void or voidable for this reason or because any such director is present at or participates in the meeting of the board of directors or of the committee thereof that authorizes the contract or transactions or because his or her vote is counted for such purpose: (a) if the material facts as to the contract or transaction and as to his or her relationship or interest are disclosed to the board of directors or such committee and the board of directors or such committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of disinterested directors even though the disinterested directors be less than a quorum, or (b) if the material facts as to the contract or transaction and as to his or her relationship or interest are disclosed or are known to the stockholders entitled to vote thereon and the contract or transaction is specifically approved in good faith by vote of the stockholders, or (c) if the contract or transaction is fair and reasonable as to the corporation as of the time it is authorized, approved, or ratified by the board of directors, such committee, or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee thereof that authorizes the contract or transaction.

13. Audit Committee

The corporation may elect to have an audit committee composed of such number of directors (not less than two) as the board of directors, by resolution passed by the vote of a majority of the entire board may appoint.

If so appointed, the audit committee shall have such duties as the board of directors shall designate, which may include the following:

(a) To recommend to the board of directors for approval by the stockholders the appointment of a firm of independent public accountants (the "auditors") to audit the accounts of the corporation and its subsidiaries as the committee may recommend for the financial year in respect of which such appointment is made;

(b) To make, or cause to be made by the auditors, such examinations or audits of the affairs and operations of the corporation or of any of its subsidiaries, of such scope, with such objects, and at such times or intervals as the committee may determine in its discretion or as may be ordered by the board of directors or the executive committee;

(c) To submit to the board of directors as soon as may be convenient following the conclusion of each examination or audit made by or at the direction of the committee, a written report relative thereto;

(d) To oversee the activities of the general auditor and his or her staff, and to conduct periodic performance evaluations and to establish the compensation of the general auditor; and

(e) To review matters associated with internal control and the management of risk.

A notation with respect to each report made to the board of directors by the audit committee and of the action taken thereon by the board of directors shall be made in the minutes of the board of directors.

14. Compensation and Nominating Committee

The corporation may elect to have a compensation and nominating committee composed of such number of directors (not less than two) as the board of directors, by resolution passed by the vote of a majority of the entire board may appoint. The Chairman of the Board and the Chief Executive Officer shall serve as ex officio members of the committee solely when it is acting in its capacity as a nominating committee pursuant to subparagraphs (e) and (f), below. The Chief Executive Officer shall not be deemed to be a member of the committee when acting with respect to compensation matters pursuant to subparagraphs (a) and (d), below.

The compensation and nominating committee shall have the following duties:

(a) After considering the recommendations of the Chief Executive Officer, to make recommendations to the board of directors from time to time as to the salaries of all employees of the corporation who are in positions or at salary levels designated from time to time by the board of directors on the recommendation of the committee;

(b) To review the salary programs and other benefit plans or arrangements affecting directors or employees of the corporation (except any such program, plan, or arrangement imposed on the corporation by law), to discharge any other responsibility placed on the committee by any such benefit plans or arrangements or specifically delegated by the board of directors to the committee from time to time to present to the board of directors the views of the committee with respect to proposed changes in any such program, plan, or other arrangement, which shall have been brought to the committee's attention by corporate management;

(c) To make, or cause to be made, such special studies and reports pertaining to the corporation's compensation policies and practices as may be requested of the committee from time to time by the board of directors;

(d) To execute as it sees fit from time to time the powers and to discharge the duties vested in it from time to time by the terms of any pension or other benefit plan or arrangement affecting directors or employees of the corporation;

(e) To consider and recommend to the board of directors candidates for appointment or election as directors who are proposed to it by the Chief Executive Officer or by any other officer of the corporation, or any director or stockholder; and

(f) To perform such functions as may be assigned to it from time to time by the board of directors.

Article IV. Officers

1. Number

The officers of the corporation shall include, if and when designated by the board of directors, the Chief Executive Officer, one or more Vice Presidents, the Secretary, and the Treasurer, all of whom shall be elected at the annual organizational meeting of the board of directors. The board of directors may also appoint one or more Assistant Secretaries, Assistant Treasurers and such other officers and agents with such powers and duties as it shall deem necessary. The board of directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation, if any, shall be fixed by or in the manner designated by the board of directors.

2. Election and Term of Office

The officers of the corporation to be elected by the board of directors shall be elected annually by the board of directors at the first meeting of the board of directors held after each annual meeting of the stockholders. If the election of officers shall not be held at such meeting, such election shall be held as soon after that as conveniently may be. All officers shall hold office at the pleasure of the board of directors and until their successors shall have been duly elected and qualified, unless sooner removed.

3. Removal

Any officer elected or appointed by the board of directors may be removed at any time by the board of directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

4. Vacancies

If the office of any officer becomes vacant for any reason, the vacancy may be filled by the board of directors.

5. Chief Executive Officer

The Chief Executive Officer of the corporation shall be the corporation’s principal executive officer and shall exercise general supervision and control over all the business and affairs of the corporation. The Chief Executive Officer shall have the following specific powers and duties:

(a) To preside at all meetings of the stockholders at which he or she is present;

(b) To have general and active management of the business of the corporation;

(c) To see that all orders and resolutions of the board are carried into effect;

(d) To execute bonds, mortgages, deeds of trust, and other contracts requiring a seal, under the seal of the corporation;

(e) To ensure the safekeeping of the seal of the corporation, and when authorized by the board of directors, to affix the seal to any instrument requiring it;

(f) To vote the shares of stock of any other corporation that are held by this corporation, or to appoint proxies for such purpose, unless other provisions are made by the board of directors;

(g) To have general superintendence and direction of all the other officers of the corporation and of the agents and employees thereof and to see that their respective duties are properly performed;

(h) To operate and conduct the business and affairs of the corporation according to the orders and resolutions of the board of directors, and according to his or her own discretion whenever and wherever it is not expressly limited by such orders and resolutions;

(i) To submit a report of the operations of the corporation to the directors at the regular meeting in each month, and an annual report thereof to the stockholders at the annual meeting, and from time to time to report to the directors all matters within his or her knowledge that should be brought to their attention in the best interests of the corporation.

In addition to the foregoing, the Chief Executive Officer may sign certificates of stock, and shall have such other powers, duties, and authority as may be set forth elsewhere in these bylaws and as may be prescribed by the board of directors from time to time.

6. Vice-Presidents

The Vice Presidents may assume and perform the duties of the Chief Executive Officer in the absence or disability of the Chief Executive Officer or whenever the office of Chief Executive Officer is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the board of directors or the Chief Executive Officer shall designate from time to time.

7. Secretary

The secretary shall attend all meetings of the stockholders and of the board of directors and shall record all acts and proceedings thereof in the minute book of the corporation. The secretary shall give notice in conformity with these bylaws of all meetings of the stockholders and of all meetings of the board of directors and any committee thereof requiring notice. The secretary shall perform all other duties given him or her in these bylaws and other duties commonly incident to his or her office and shall also perform such other duties and have such other powers, as the board of directors shall designate from time to time. The Chief Executive Officer may direct any assistant secretary to assume and perform the duties of the secretary in the absence or disability of the secretary, and each assistant secretary shall perform other duties commonly incident to his or her office and shall also perform such other duties and have such other powers as the board of directors or the Chief Executive Officer shall designate from time to time.

8. Treasurer

Unless some other officer has been elected chief financial officer of the corporation, the treasurer shall be the chief financial officer of the corporation and shall keep or cause to be kept the books of account of the corporation in a thorough and proper manner and shall render statements of the financial affairs of the corporation in such form and as often as required by the board of directors or the president. The treasurer, subject to the order of the board of directors, shall have the custody of all funds and securities of the corporation. The treasurer shall perform other duties commonly incident to his office and shall also perform

such other duties and have such other powers as the board of directors or the president shall designate from time to time. The president may direct any assistant treasurer to assume and perform the duties of the treasurer in the absence or disability of the treasurer, and each assistant treasurer shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the board of directors or the president shall designate from time to time. If required by the board of directors, the treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the board of directors shall determine.

9. Chairman of the Board of Directors

The Chairman of the board of directors, when present, shall preside at all meetings of the stockholders and the board of directors. The Chairman of the board of directors shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers, as the board of directors shall designate from time to time. If there is no president, then the Chairman of the board of directors shall also serve as the chief executive officer of the corporation and shall have the powers and duties prescribed for the president of the corporation in these bylaws.

Article V. Contracts, Checks and Authority

The board of directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the corporation any corporate instrument or document, or to sign on behalf of the corporation the corporate name without limitation, or to enter into contracts on behalf of the corporation, except where otherwise provided by law or these bylaws, and such execution or signature shall be binding upon the corporation.

All checks and drafts drawn on banks or other depositaries on funds to the credit of the corporation or in special accounts of the corporation shall be signed by such person or persons as the board of directors shall authorize so to do.

Unless authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Article VI. Certificates for Shares and Their Transfer

1. Certificates for Shares

Certificates for the shares of stock of the corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the corporation shall be entitled to have a certificate signed by or in the name of the corporation by the Chairman of the board of directors or the president, and by the treasurer or assistant treasurer or the secretary or assistant secretary, certifying the number of shares owned by him in the corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he were such officer, transfer agent, or registrar at the date of issue. Each certificate shall state upon the face or back thereof, in full or in summary, all of the powers, designations, preferences, and rights, and the limitations or restrictions of the shares authorized to be issued or shall, except as otherwise required by law, set forth on the face or back a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Within a reasonable time after the issuance or transfer of uncertificated stock, the corporation shall send to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to this section or otherwise required by law or with respect to this section a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Except as otherwise expressly provided by law, the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or his legal representative, to agree to indemnify the corporation in such manner as it shall require or to give the corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

2. Transfer of Shares

Transfer of shares of the corporation shall be made only on the stock transfer books of the corporation by the holder of record or by *[his/her]* legal representative, who shall furnish proper evidence of authority to transfer, or by *[his/her]* attorney authorized by power of attorney duly executed and filed with the secretary of the corporation, and on surrender for cancellation of the certificate for such shares. The person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner for all purposes.

Transfers of record of shares of stock of the corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, and upon the surrender of a properly endorsed certificate or certificates for a like number of shares. The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by applicable law.

Article VII. Fiscal Year

The fiscal year of the corporation shall begin on the 1st day of January and end on the 31st day of December in each year.

Article VIII. Dividends

Dividends upon the capital stock of the corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by the board of directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

Article IX. Corporate Seal

The corporate seal shall consist of a die bearing the name of the corporation and the inscription, “Corporate Seal- Delaware.” Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Article X. Waiver of Notice

Whenever any notice is required to be given to any stockholder or director of the corporation under the provisions of these bylaws or under the provisions of the Certificate of Incorporation or under the provisions of the Delaware General Corporation Law, a waiver in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Article XI. Amendments

Subject to any specific provision herein with respect to alteration or amendment of a particular bylaw, these bylaws may be altered or amended or new bylaws adopted by the affirmative vote of a majority of the voting power of all of the then-outstanding shares of the voting stock of the corporation entitled to vote. The board of directors shall also have the power to adopt, amend, or repeal bylaws.

Article XII. Indemnification

(a) The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that [he/she] is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fee), judgments, fines and amounts paid in settlement actually and reasonably incurred by [him/her] in connection with such action, suit or proceeding if [he/she] acted in good faith and in a manner [he/she] reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe [his/her] conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which [he/she] reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that [his/her] conduct was unlawful.

(b) The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that [he/she] is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by [him/her] in connection with the defense or settlement of such action or suit if [he/she] acted in good faith and in a manner [he/she] reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of [his/her] duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such other court shall deem proper.

(c) To the extent that any person referred to in paragraphs (a) and (b) of this article has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to therein or in defense of any claim, issue or matter therein, [he/she] shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by [him/her] in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this article (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because [he/she] has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this article. Such determination shall be made (a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by the stockholders.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that [he/she] is entitled to be indemnified by the corporation as provided in this article.

(f) The indemnification provided by this article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in [his/her] official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against [him/her] and incurred by [him/her] in any such capacity, or arising out of [his/her] status as such, whether or not the corporation would have the power to indemnify [him/her] against such liability under the provisions of this Article XII.

(h) For the purposes of this article, references to “the corporation” include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as [he/she] would if [he/she] had served the resulting or surviving corporation in the same capacity.

Adopted: July 1, 2014

BYLAW AMENDMENT

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FIRST AMENDMENT TO THE
BYLAWS
OF
TREACE MEDICAL CONCEPTS, INC.
(hereinafter called the "Corporation")

ARTICLE III, Section 2 to the Bylaws of the Corporation is restated to read in its entirety as follows:

2. Number, Tenure, and Qualifications

Subject to the rights of holders of any class or series of capital stock of the corporation to elect directors, the number of directors of the corporation shall be determined from time to time by the stockholders or the board of directors in a resolution adopted by the board of directors. Directors need not be residents of the State of Florida or stockholders unless so required by the Certificate of Incorporation. Each director shall hold office until the next annual meeting of stockholders and until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

The remainder of the Corporation's Bylaws remain in full force and effect.

Adopted and effective as of November 16, 2020.

TREACE MEDICAL CONCEPTS, INC.
2014 STOCK PLAN

1. Purposes of the Plan. The name of this plan is the Treace Medical Concepts, Inc. 2014 Stock Plan (the "Plan"). The purposes of this Plan are to (a) attract and retain the best available personnel for positions of substantial responsibility; (b) to provide additional incentive to Employees, Directors and Consultants; and (c) to promote the success of the Company's business. Options granted under the Plan may be Incentive Stock Options or Nonstatutory Stock Options, as determined by the Administrator at the time of grant. Stock Purchase Rights may also be granted under the Plan.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Administrator" means the Board or any of its Committees as shall be administering the Plan in accordance with Section 4 hereof.

(b) "Applicable Laws" means the requirements relating to the administration of stock option plans under U.S. state corporate laws, U.S. federal and state securities laws, the Code, any stock exchange or quotation system on which the Common Stock is listed or quoted and the applicable laws of any other country or jurisdiction where Options or Stock Purchase Rights are granted under the Plan.

(c) "Board" means the Board of Directors of the Company.

(d) "Change in Control" means the occurrence of any of the following events:

(i) Any "person" (as such term is used in Sections l3(d) and l4(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company's then outstanding voting securities; or

(ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company's assets; or

(iii) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

However, to the extent that Section 409A of the Code would cause an adverse tax consequence to a Plan participant using the above definition, the term "Change in Control" shall have the meaning ascribed to the phrase "Change in the Ownership or Effective Control of a Corporation or in the Ownership of a Substantial Portion of the Assets of a Corporation" under Treasury Department Regulation 1.409A-3(i)(5), as revised from time to time in either subsequent proposed or final regulations, and in the event that such regulations are withdrawn or such phrase (or a substantially similar phrase) ceases to be defined, as determined by the Committee.

(e) "Code" means the Internal Revenue Code of 1986, as amended.

(f) "Committee" means a committee of Directors or of other individuals satisfying Applicable Laws appointed by the Board in accordance with Section 4 hereof.

(g) “Common Stock” means the Class A Common Stock of the Company.

(h) “Company” means Treace Medical Concepts, Inc., a Delaware corporation.

(i) “Consultant” means any person who is engaged by the Company or any Parent or Subsidiary to render consulting, advisory or independent sales agent services to such entity.

(j) “Director” means a member of the Board.

(k) “Disability” means total and permanent disability as defined in Section 22(e)(3) of the Code.

(1) “Employee” means any person, including officers and Directors, employed by the Company or any Parent or Subsidiary of the Company. Neither service as a Director nor payment of a director’s fee by the Company shall be sufficient to constitute “employment” by the Company.

(m) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(n) “Fair Market Value” means, as of any date, the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the day of determination, as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;

(ii) If the Common Stock is regularly quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high bid and low asked prices for the Common Stock on the day of determination; or

(iii) In the absence of an established market for the Common Stock, the Fair Market Value thereof shall be determined in good faith by the Administrator.

With respect to Incentive Stock Options, Fair Market Value shall be determined in accordance with Code Section 422 and with respect to Nonstatutory Stock Options, Fair Market Value shall be determined in accordance with Code Section 409A.

(o) “Incentive Stock Option” means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(p) “Nonstatutory Stock Option” means an Option not intended to qualify as an Incentive Stock Option.

(q) “Option” means a stock option granted pursuant to the Plan.

(r) “Option Agreement” means a written or electronic agreement between the Company and an Optionee evidencing the terms and conditions of an individual Option grant. The Option Agreement is subject to the terms and conditions of the Plan.

(s) “Optioned Stock” means the Common Stock subject to an Option or a Stock Purchase Right.

(t) “Optionee” means the holder of an outstanding Option or Stock Purchase Right granted under the Plan.

(u) “Parent” means a “parent corporation,” whether now or hereafter existing, as defined in Section 424(e) of the Code.

(v) “Plan” means this Treace Medical Concepts, Inc. 2014 Stock Plan, as amended and/or amended and restated from time to time.

(w) “Restricted Stock” means Shares issued pursuant to a Stock Purchase Right or Shares of restricted stock issues pursuant to an Option.

(x) “Restricted Stock Purchase Agreement” means a written agreement between the Company and the Optionee evidencing the terms and restrictions applying to Shares purchased under a Stock Purchase Right. The Restricted Stock Purchase Agreement is subject to the terms and conditions of the Plan and the notice of grant.

(y) “Securities Act means the Securities Act of 1933, as amended.

(z) “Service Provider” means an Employee, Director or Consultant.

(aa) “Share” means a share of the Common Stock, as adjusted in accordance with Section 13 below.

(bb) “Stock Purchase Right” means a right to purchase Common Stock pursuant to Section 11 below.

(cc) “Subsidiary” means a “subsidiary corporation,” whether now or hereafter existing, as defined in Section 424(1) of the Code.

3. Stock Subject to the Plan. Subject to the provisions of Section 13 of the Plan, (i) the maximum aggregate number of Shares that may be subject to Options or Stock Purchase Rights and sold under the Plan is Eight Million (8,000,000) Shares and (ii) the maximum number of Shares that may be subject to Incentive Stock Options and sold under the Plan is Eight Million (8,000,000) Shares. The Shares may be authorized but unissued, or reacquired Common Stock.

If an Option or Stock Purchase Right expires or becomes exercisable without having been exercised in full, the unpurchased Shares that were subject thereto shall become available for future grant or sale under the Plan (unless the Plan has terminated). However, Shares that have actually been issued under the Plan, upon exercise of either an Option or Stock Purchase Right, shall not be returned to the Plan and shall not become available for future distribution under the Plan, except that if unvested Shares of Restricted Stock are repurchased by the Company at their original purchase price, such Shares shall become available for future grant under the Plan.

No fractional Shares shall be issued or delivered pursuant to the Plan. The Administrator shall determine whether cash, additional awards or other securities or property shall be issued or paid in lieu of fractional Shares or whether any fractional shares should be rounded, forfeited or otherwise eliminated.

4. Administration of the Plan.

(a) Administrator. The Plan shall be administered by the Board or a Committee appointed by the Board, which Committee shall be constituted to comply with Applicable Laws.

(b) Powers of the Administrator. Subject to the provisions of the Plan and, in the case of a Committee, the specific duties delegated by the Board to such Committee, and subject to the approval of any relevant authorities, the Administrator shall have the authority in its discretion:

(i) to determine the Fair Market Value;

(ii) to select the Service Providers to whom Options and Stock Purchase Rights may from time to time be granted hereunder;

(iii) to determine the number of Shares to be covered by each such award

(iv) to approve forms of agreement for use under the Plan;

(v) to determine the terms and conditions of any Option or Stock Purchase Right granted hereunder. Such terms and conditions include, but are not limited to, the exercise price, the time or times when Options or Stock Purchase Rights may be exercised (which may be based on performance criteria), any vesting acceleration or waiver of forfeiture restrictions, and any restriction or limitation regarding any Option or Stock Purchase Right or the Common Stock relating thereto, based in each case on such factors as the Administrator, in its sole discretion, shall determine;

(vi) to prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans established for the purpose of satisfying applicable foreign laws;

(vii) to allow Optionees to satisfy withholding tax obligations by electing to have the Company withhold from the Shares to be issued upon exercise of an Option or Stock Purchase Right that number of Shares having a Fair Market Value equal to the minimum amount required to be withheld. The Fair Market Value of the Shares to be withheld shall be determined on the date that the amount of tax to be withheld is to be determined. All elections by Optionees to have Shares withheld for this purpose shall be made in such form and under such conditions as the Administrator may deem necessary or advisable;

(viii) to construe and interpret the terms of the Plan and Options granted pursuant to the Plan; and

(ix) to exercise discretion to make any and all other determinations which it determines to be necessary or advisable for the administration of the Plan.

(c) Effect of Administrator's Decision. All decisions, determinations and interpretations of the Administrator shall be final and binding on all Optionees.

5. Eligibility. Nonstatutory Stock Options and Stock Purchase Rights may be granted to Service Providers. Incentive Stock Options may be granted only to Employees.

6. Limitations.

(a) Incentive Stock Option Limit. Each Option shall be designated in the Option Agreement as either an Incentive Stock Option or a Nonstatutory Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Incentive Stock Options are exercisable for the first time by the Optionee during any calendar year (under all plans of the Company and any Parent or Subsidiary) exceeds $100,000, such Options shall be treated as Nonstatutory Stock Options. For purposes of this Section 6(a), Incentive Stock Options shall be taken into account in the order in which they were granted. The Fair Market Value of the Shares shall be determined as of the time the Option with respect to such Shares is granted.

(b) At-Will Employment. Neither the Plan nor any Option or Stock Purchase Right shall confer upon any Optionee any right with respect to continuing the Optionee's relationship as a Service Provider with the Company, nor shall it interfere in any way with his or her right or the Company's right to terminate such relationship at any time, with or without cause, and with or without notice.

7. Term of Plan. Subject to stockholder approval in accordance with Section 19, the Plan shall become effective upon its adoption by the Board. Unless sooner terminated under Section 15, it shall continue in effect for a term of ten (10) years from the effective date of the Plan. The Plan shall be subject to approval by the stockholders of the Company within twelve (12) months after the date the Plan is adopted. Such stockholder approval shall be obtained in the degree and manner required under Applicable Laws. In the event the stockholders fail to approve the Plan within 12 months after its adoption by the Board of Directors, then any grants, exercises or sales that have already occurred under the Plan shall be rescinded and no additional grants, exercises or sales shall thereafter be made under the Plan.

8. Term of Option. The term of each Option shall be stated in the Option Agreement; provided, however, that the term shall be no more than ten (10) years from the date of grant thereof. In the case of an Incentive Stock Option granted to an Optionee who, at the time the Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Option shall be five (5) years from the date of grant or such shorter term as may be provided in the Option Agreement.

9. Option Exercise Price and Consideration.

(a) Exercise Price. The per share exercise price for the Shares to be issued upon exercise of an Option shall be such price as is determined by the Administrator, but shall be subject to the following:

(i) In the case of an Incentive Stock Option

(A) granted to an Employee who, at the time of grant of such Option, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the exercise price shall be no less than 110% of the Fair Market Value per Share on the date of grant.

(B) granted to any other Employee, the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Nonstatutory Stock Option the per Share exercise price shall be no less than 100% of the Fair Market Value per Share on the date of grant.

(iii) Notwithstanding the foregoing, Options may be granted with a per Share exercise price other than as required above pursuant to a merger or other corporate transaction.

(b) Forms of Consideration. The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant). Such consideration may consist of, without limitation: (i) cash; (ii) check; (iii) promissory note; (iv) other Shares, provided Shares that were acquired directly from the Company (x) have been owned by the Optionee for more than six (6) months on the date of surrender, and (y) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which such Option shall be exercised; (v) consideration received by the Company under a cashless exercise program implemented by the Company in connection with the Plan; or (vi) any combination of the foregoing methods of payment. In making its determination as to the type of consideration to accept, the Administrator shall consider if acceptance of such consideration may be reasonably expected to benefit the Company.

10. Exercise of Option.

(a) Procedure for Exercise; Rights as a Stockholder. Any Option granted hereunder shall be exercisable according to the terms hereof at such times and under such conditions as determined by the Administrator and set forth in the Option Agreement. An Option may not be exercised for a fraction of a Share. Except in the case of Options granted to officers, Directors and Consultants, Options shall become exercisable at a rate of no less than 20% per year over five (5) years from the date the Options are granted.

An Option shall be deemed exercised when the Company receives (i) written or electronic notice of exercise in accordance with the Option Agreement) from the person entitled to exercise the Option, and (ii) full payment for the Shares with respect to which the Option is exercised. Full payment may consist of any consideration and method of payment authorized by the Administrator and permitted by the Option Agreement and the Plan. Shares issued upon exercise of an Option shall be issued in the name of the Optionee or, if requested by the Optionee, in the name of the Optionee and his or her spouse. Until the Shares are issued (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Shares, notwithstanding the exercise of the Option. The Company shall issue (or cause to be issued) such Shares promptly after the Option is exercised. No adjustment will be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Section 13 of the Plan. Notwithstanding the foregoing, the Shares shall be issued as promptly as necessary so as to avoid taxes and interest under Section 409A of the Code.

Exercise of an Option in any manner shall result in a decrease in the number of Shares thereafter available for sale under the Option, by the number of Shares as to which the Option is exercised.

(b) Termination of Relationship as a Service Provider. If an Optionee ceases to be a Service Provider, such Optionee may exercise his or her Option within thirty (30) days of termination, or such longer period of time as specified in the Option Agreement, to the extent that the Option is vested on the date of termination (but in no event later than the expiration of the term of the Option as set forth in the Option Agreement). If, on the date of termination, the Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified by the Administrator, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(c) Disability of Optionee. If an Optionee ceases to be a Service Provider as a result of the Optionee's Disability, the Optionee may exercise his or her Option within six (6) months of termination, or such longer period of time as specified in the Option Agreement, to the extent the Option is vested on the date of termination (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement). If, on the date of termination, the Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall revert to the Plan. If, after termination, the Optionee does not exercise his or her Option within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(d) Death of Optionee. If an Optionee dies while a Service Provider, the Option may be exercised within six (6) months following Optionee's death, or such longer period of time as specified in the Option Agreement, to the extent that the Option is vested on the date of death (but in no event later than the expiration of the term of such Option as set forth in the Option Agreement) by the Optionee's designated beneficiary, provided such beneficiary has been designated prior to Optionee's death in a form acceptable to the Administrator. If no such beneficiary has been designated by the Optionee, then such Option may be exercised by the personal

representative of the Optionee's estate or by the person(s) to whom the Option is transferred pursuant to the Optionee's will or in accordance with the laws of descent and distribution. If, at the time of death, the Optionee is not vested as to his or her entire Option, the Shares covered by the unvested portion of the Option shall immediately revert to the Plan. If the Option is not so exercised within the time specified herein, the Option shall terminate, and the Shares covered by such Option shall revert to the Plan.

(e) Leaves of Absence.

(i) Unless the Administrator provides otherwise, vesting of Options granted hereunder to officers and Directors shall be suspended during any unpaid leave of absence.

(ii) A Service Provider shall not cease to be an Employee in the case of (A) any leave of absence approved by the Company or (B) transfers between locations of the Company or between the Company, its Parent, any Subsidiary, or any successor.

(iii) For purposes of Incentive Stock Options, no such leave may exceed ninety (90) days, unless reemployment upon expiration of such leave is guaranteed by statute or contract. If reemployment upon expiration of a leave of absence approved by the Company is not so guaranteed, then three (3) months following the 91st day of such leave, any Incentive Stock Option held by the Optionee shall cease to be treated as an Incentive Stock Option and shall be treated for tax purposes as a Nonstatutory Stock Option.

11. Stock Purchase Rights.

(a) Rights to Purchase. Stock Purchase Rights may be issued either alone, in addition to, or in tandem with other awards granted under the Plan and/or cash awards made outside of the Plan. After the Administrator determines that it will offer Stock Purchase Rights under the Plan, it shall advise the offeree in writing or electronically of the terms, conditions and restrictions related to the offer, including the number of Shares that such person shall be entitled to purchase, the price to be paid, and the time within which such person must accept such offer. The offer shall be accepted by execution of a Restricted Stock Purchase Agreement in the form determined by the Administrator.

(b) Repurchase Option. Unless the Administrator determines otherwise, the Restricted Stock Purchase Agreement shall grant the Company a repurchase option exercisable within 90 days of the voluntary or involuntary termination of the purchaser's service with the Company for any reason (including death or disability). The purchase price for Shares repurchased pursuant to the Restricted Stock Purchase Agreement shall be the original price paid by the purchaser and may be paid by cancellation of any indebtedness of the purchaser to the Company. The repurchase option shall lapse at such rate as the Administrator may determine. Except with respect to Shares purchased by officers, Directors and Consultants, the repurchase option shall in no case lapse at a rate of less than 20% per year over five (5) years from the date of purchase.

(c) Other Provisions. The Restricted Stock Purchase Agreement shall contain such other terms, provisions and conditions not inconsistent with the Plan as may be determined by the Administrator in its sole discretion.

(d) Rights as a Stockholder. Once the Stock Purchase Right is exercised, the purchaser shall have rights equivalent to those of a stockholder and shall be a stockholder when his or her purchase is entered upon the records of the duly authorized transfer agent of the Company. No adjustment shall be made for a dividend or other right for which the record date is prior to the date the Stock Purchase Right is exercised, except as provided in Section 13 of the Plan.

12. Limited Transferability of Options and Stock Purchase Rights. Unless determined otherwise by the Administrator, Options and Stock Purchase Rights may not be sold, pledged, assigned, hypothecated, transferred,

or disposed of in any manner other than by will or the laws of descent and distribution, and may be exercised during the lifetime of the Optionee, *only* by the Optionee. If the Administrator in its sole discretion makes an Option or Stock Purchase Right transferable, such Option or Stock Purchase Right may only be transferred (i) by will, (ii) by the laws of descent and distribution, or (iii) to family members (within the meaning of Rule 701 of the Securities Act) through gifts or domestic relations orders, as permitted by Rule 701 of the Securities Act.

13. Adjustments; Dissolution or Liquidation; Merger or Change in Control.

(a) Adjustments. In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs, the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under the Plan, may (in its sole discretion)but shall not be required, adjust the number and class of Shares that may be delivered under the Plan and/or the number, class, and price of Shares covered by each outstanding Option or Stock Purchase Right. In the case of adjustments made pursuant to this Section 13, unless the Administrator specifically determines that such adjustment is in the best interests of the Company, the Administrator shall, in the case of Incentive Stock Options, ensure that any adjustments under this Section 13 will not constitute a modification, extension or renewal of the Incentive Stock Options within the meaning of Section 424(h)(3) of the Code and in the case of Non-qualified Stock Options, ensure that any adjustments under this Section 13 will not constitute a modification of such Non-qualified Stock Options within the meaning of Section 409A of the Code. In the event the Company becomes a publicly held corporation, any adjustments made under this Section 13 shall be made in a manner which does not adversely affect the exemption provided pursuant to Rule 16b-3 under the Exchange Act. Further, with respect to awards intended to qualify as “performance-based compensation” under Section 162(m) of the Code, any adjustments or substitutions will not cause the Company to be denied a tax deduction on account of Section 162(m) of the Code. The Company shall give each stockholder notice of an adjustment hereunder and, upon notice, such adjustment shall be conclusive and binding for all purposes.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, the Administrator shall notify each Optionee as soon as practicable prior to the effective date of such proposed transaction. To the extent it has not been previously exercised, an Option or Stock Purchase Right will terminate immediately prior to the consummation of such proposed action.

(c) Merger or Change in Control. In the event of a merger of the Company with or into another corporation, or a Change in Control, each outstanding Option and Stock Purchase Right shall be assumed or an equivalent option substituted by the successor corporation or a Parent or Subsidiary of the successor corporation. In the event that the successor corporation in a merger or Change in Control refuses to assume or substitute for the Option or Stock Purchase Right, then the Optionee shall fully vest in and have the right to exercise the Option or Stock Purchase Right as to all of the Optioned Stock, including Shares as to which it would not otherwise be vested or exercisable. If an Option or Stock Purchase Right becomes fully vested and exercisable in lieu of assumption or substitution in the event of a merger or Change in Control, the Administrator shall notify the Optionee in writing or electronically that the Option or Stock Purchase Right shall be fully exercisable for a period of at least fifteen (15) days from the date of such notice, and the Option or Stock Purchase Right shall terminate upon expiration of such period. For the purposes of this paragraph, the Option or Stock Purchase Right shall be considered assumed if, following the merger or Change in Control, the option or right confers the right to purchase or receive, for each Share of Optioned Stock subject to the Option or Stock Purchase Right immediately prior to the merger or Change in Control, the consideration (whether stock, cash, or other securities or property) received in the merger or Change in Control by holders of Common Stock for each Share held on the effective date of the transaction (and if holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that

if such consideration received in the merger or Change in Control is not solely common stock of the successor corporation or its Parent, the Administrator may, with the consent of the successor corporation, provide for the consideration to be received upon the exercise of the Option or Stock Purchase Right, for each Share of Optioned Stock subject to the Option or Stock Purchase Right, to be solely common stock of the successor corporation or its Parent equal in fair market value to the per share consideration received by holders of common stock in the merger or Change in Control. Notwithstanding the foregoing, the Administrator shall have the right to include in the relevant stock option and restricted stock grant agreements provisions regarding acceleration of vesting upon a merger or Change in Control that differ from those set forth above, and such provisions shall preempt those contained in this Section 13(c).

14. Time of Granting Options and Stock Purchase Rights. The date of grant of an Option or Stock Purchase Right shall, for all purposes, be the date on which the Administrator makes the determination granting such Option or Stock Purchase Right, or such later date as is determined by the Administrator. Notice of the determination shall be given to each Service Provider to whom an Option or Stock Purchase Right is so granted within a reasonable time after the date of such grant.

15. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or terminate the Plan at any time and for any reason; provided, however, that any amendment of the Plan shall be subject to the approval of the Company's stockholders if it (i) increases the number of Shares available for issuance under the Plan (except as provided in Section 8) or (ii) changes the class of persons who are eligible for the grant of Incentive Stock Options. Stockholder approval shall not be required for any other amendment of the Plan. If the stockholders fail to approve an increase in the number of Shares reserved under Section 3 within 12 months after its adoption by the Board of Directors, then any grants, exercises or sales that have already occurred in reliance on such increase shall be rescinded and no additional grants, exercises or sales shall thereafter be made in reliance on such increase.

(b) Stockholder Approval. The Board shall obtain stockholder approval of any Plan amendment to the extent necessary and desirable to comply with Applicable Laws.

(c) Effect of Amendment or Termination. No amendment, alteration, suspension or termination of the Plan shall impair the rights granted to any Optionee prior to such termination, unless mutually agreed otherwise between the Optionee and the Administrator, which agreement must be in writing and signed by the Optionee and the Company. Termination of the Plan shall not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Options granted under the Plan prior to the date of such termination.

16. Conditions upon Issuance of Shares.

(a) Legal Compliance. Shares shall not be issued pursuant to the exercise of an Option or Stock Purchase Right unless the exercise of such Option or Stock Purchase Right and the issuance and delivery of such Shares shall comply with Applicable Laws and shall be further subject to the approval of counsel for the Company with respect to such compliance.

(b) Investment Representations. As a condition to the exercise of an Option or Stock Purchase Right, the Administrator may require the person exercising such Option or Stock Purchase Right to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required.

(c) Stockholders' Agreement. Shares shall not be issued pursuant to the exercise of an Option or Stock Purchase Right unless the person to receive such Shares shall first execute and deliver to the Company a Stockholders' Agreement containing such restrictions on transfer and other provisions as the Company may require.

17. Inability to Obtain Authority. The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

18. Reservation of Shares. The Company, during the term of this Plan, shall at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

19. Sections 409A and 422 of the Code.

(a) Section 409A of the Code.

The Plan is intended not to provide for deferral of compensation with respect to Options for purposes of Section 409A of the Code. The provisions of the Plan shall be interpreted in a manner that promotes such intent expressed in the immediately preceding sentence and the Plan shall be operated accordingly. If any provision of the Plan or any term or condition of any Option would otherwise frustrate or conflict with this intent, the provision, term or condition will be interpreted and deemed amended so as to avoid this conflict.

In the event that following the application of the immediately preceding paragraph, any award is subject to Section 409A of the Code, the provisions of Section 409A of the Code and the regulations issued thereunder are incorporated herein by reference to the extent necessary for any award that is subject Section 409A of the Code to comply therewith. In such event, the provisions of the Plan shall be interpreted in a manner that satisfies the requirements of Section 409A of the Code and the related regulations, and the Plan shall be operated accordingly. If any provision of the Plan or any term or condition of any award would otherwise frustrate or conflict with this intent, the provision, term or condition will be interpreted and deemed amended so as to avoid this conflict.

If a payment obligation under this Plan arises on account of a person's "separation from service" (as defined under Treasury Regulation Section 1.409A-1(h)) while such a person is a "specified employee" (as defined under Section 409A of the Code and determined in good faith by the Committee), any payment of "deferred compensation" (as defined under Treasury Regulation Section 1.409A-1(b)(1), after giving effect to the exemptions in Treasury Regulation Sections 1.409A-1(b)(3) through (b)(12)) that is scheduled to be paid within six months after such separation from service shall accrue without interest and shall be paid on the first day of the seventh month beginning after the date of such person's separation from service or, if earlier, within 15 days after the appointment of the personal representative or executor of such person's estate following his or her death.

Notwithstanding any other provisions of the Plan, the Company does not guarantee to any person that any award hereunder intended to be exempt from Section 409A of the Code shall be so exempt, nor that any award intended to comply with Section 409A of the Code shall so comply, nor will the Company indemnify, defend or hold harmless any individual with respect to the tax consequences of any such failure.

(b) Section 422 of the Code.

Incentive Stock Options granted hereunder are intended to qualify as "incentive stock options" under Section 422 of the Code. The provisions of the Plan shall be interpreted in a manner that promotes such intent expressed in the immediately preceding sentence and the Plan shall be operated accordingly. If any provision of the Plan or any term or condition of any option would otherwise frustrate or conflict with this intent, the provision, term or condition will be interpreted and deemed amended so as to avoid this conflict.

20. Securities Law Requirements.

(a) General. Shares shall not be issued under the Plan unless the issuance and delivery of such Shares comply with (or are exempt from) all applicable requirements of law, including (without limitation) the Securities Act of 1933, as amended, the rules and regulations promulgated thereunder, state securities laws and regulations, and the regulations of any stock exchange or other securities market on which the Company's securities may then be traded.

(b) Financial Reports. The Company each year shall furnish to Optionees, Purchasers and shareholders who have received Stock under the Plan its balance sheet and income statement, unless such Optionees, Purchasers or shareholders are key Employees whose duties with the Company assure them access to equivalent information. Such balance sheet and income statement need not be audited.

(c) Limitations Applicable In Event Company Becomes a Publicly Held Corporation. To the extent required for transactions under the Plan to qualify for the exemptions available under Rule 16b-3 promulgated under the "Exchange Act", all actions relating to awards to persons subject to Section 16 of the Exchange Act may be taken by the Board of Directors or the Committee when composed of two or more members, each of whom is a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act. To the extent required for compensation realized from awards under the Plan to be deductible by the Company pursuant to Section 162(m) of the Code ("Section 162(m)"), such awards may be granted by the Board of Directors or a Committee when composed of two or more members, each of whom is an "outside director" within the meaning of Section 162(m).

TREACE MEDICAL CONCEPTS, INC.
2014 STOCK PLAN

STOCK OPTION AGREEMENT

Unless otherwise defined herein, the terms defined in the 2014 Stock Plan, as amended (the "Plan") shall have the same defined meanings in this Stock Option Agreement.

I. **NOTICE OF STOCK OPTION GRANT**

Name:

Address:

The undersigned Optionee has been granted an Option to purchase Common Stock of the Company, subject to the terms and conditions of the Plan and this Option Agreement, as follows:

Date of Grant:

Vesting Commencement Date:

Exercise Price per Share:

Total Number of Shares Granted:

Exercise Price:

Term/Expiration Date:

Vesting Schedule: This Option shall be exercisable in whole or in part, according to the following vesting schedule. The vesting period shall be three (3) years commencing on the Date of Grant; and the Shares shall vest on a *pro rata* basis monthly (*i.e.*, 1/36th per month beginning on Date of Grant) during the vesting period, subject to Optionee continuing to be a Service Provider.

Notwithstanding the foregoing vesting schedule and anything contrary in the Plan, immediately upon a merger of the Company or a Change of Control (as defined below) Optionee shall fully vest in and have the right to exercise 100% of the Shares as of the date of such event.

"Change of Control" means either: (l) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation or stock transfer, but excluding any such transaction effected primarily for the purpose of changing the domicile of the Company), unless the Company's stockholders of record immediately prior to such transaction or series of related transactions hold, immediately after such transaction or series of related transactions, at least 50% of the voting power of the surviving or acquiring entity (provided that the sale by the Company of its securities for the purposes of raising additional funds shall not constitute a Change of Control hereunder); or (2) a sale of all or substantially all of the assets of the Company.

Termination Period: This Option shall be exercisable for ninety (90) days after Optionee ceases to be a Service Provider. Upon Optionee's death or Disability, this Option shall be exercisable for one year after Optionee ceases to be Service Provider. In no event may Optionee exercise this Option after the Term/Expiration Date as provided above.

II. **AGREEMENT**

1. Grant of Option. The Administrator of the Company hereby grants to the Optionee named in the Notice of Grant in Part I of this Agreement (the "Optionee"), an option (the "Option") to purchase the number of Shares set forth in the Notice of Grant, at the exercise price per Share set forth in the Notice of Grant (the "Exercise Price"), and subject to the terms and conditions of the Plan, which is incorporated herein by reference. Subject to Section 15(c) of the Plan, in the event of a conflict between the terms and conditions of the Plan and this Option Agreement, the terms and conditions of the Plan shall prevail.

2. Exercise of Option. This Option shall be exercisable during its term in accordance with the provisions of Section 10 of the Plan as follows:

   (a) *Right to Exercise*. This Option shall be exercisable cumulatively according to the vesting schedule set forth in the Notice of Grant. This Option may not be exercised for a fraction of a Share.

   (b) *Method of Exercise*. This Option shall be exercisable by delivery of an exercise notice in the form provided by the Company, which shall state the election to exercise the Option, the number of Shares with respect to which the Option is being exercised, and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price.

   No Shares shall be issued pursuant to the exercise of an Option unless such issuance and such exercise comply with Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.

3. Optionee's Representations. In the event the Shares have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), at the time this Option is exercised, the Optionee shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, deliver to the Company his or her Investment Representation Statement in the form provided by the Company.

4. Lock-Up Period. Optionee hereby agrees that Optionee shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Optionee (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act.

Optionee agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, Optionee shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred eighty (180) day period. Optionee agrees that any transferee of the Option or shares acquired pursuant to the Option shall be bound by this Section.

5. Method of Payment. Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

   (a) cash;

   (b) check;

   (c) consideration received by the Company under a formal cashless exercise program adopted by the Company in connection with the Plan; or

   (d) surrender of other Shares which, (i) in the case of Shares acquired from the Company, either directly or indirectly, have been owned by the Optionee, and not subject to a substantial risk of forfeiture, for more than six (6) months on the date of surrender, and (ii) have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares.

6. Restrictions on Exercise. This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such shares would constitute a violation of any Applicable Law.

7. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by Optionee. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

8. Term of Option. This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option.

9. Tax Obligations. Optionee agrees to make appropriate arrangements with the Company (or the Parent or Subsidiary employing or retaining Optionee) for the satisfaction of all Federal, state, local and foreign income and employment tax withholding requirements applicable to the

Option exercise. Optionee acknowledges and agrees that the Company may refuse to honor the exercise and refuse to deliver the Shares if such withholding amounts are not delivered at the time of exercise.

10. Entire Agreement; Governing Law. The Plan is incorporated herein by reference. The Plan and this Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and Optionee. This Agreement is governed by the internal substantive laws but not the choice of law rules of Delaware.

11. No Guarantee of Continued Service. OPTIONEE AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of the Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Option. Optionee further agrees to notify the Company upon any change in the residence address indicated below.

[signatures on following page]

SIGNATURE PAGE TO STOCK OPTION AGREEMENT

"OPTIONEE"

_____

[Name of Optionee]

TREACE MEDICAL CONCEPTS, INC.

_____

John T. Treace,
Chief Executive Officer

TREACE MEDICAL CONCEPTS, INC.
2014 STOCK PLAN

STOCK OPTION AGREEMENT

Unless otherwise defined herein, the terms defined in the 2014 Stock Plan, as amended (the "Plan") shall have the same defined meanings in this Stock Option Agreement.

I. **NOTICE OF STOCK OPTION GRANT**

Name:

Address:

The undersigned Optionee has been granted an Option to purchase Common Stock of the Company, subject to the terms and conditions of the Plan and this Option Agreement, as follows:

Date of Grant:

Vesting Commencement Date:

Exercise Price per Share:

Total Number of Shares Granted:

Exercise Price:

Type of Option: [ ] Incentive Stock Option
[ ] Nonstatutory Stock Option

Term/Expiration Date:

Vesting Schedule: This Option shall be exercisable in whole or in part, according to the following vesting schedule. Twenty-five percent (25%) of the Shares subject to the Option shall vest on each of the first through fourth anniversaries of the Vesting Commencement Date, subject to Optionee continuing to be a Service Provider through each such date.

Notwithstanding the foregoing vesting schedule and anything contrary in the Plan, immediately upon a merger of the Company or a Change of Control (as defined below) Optionee shall fully vest in and have the right to exercise 100% of the Shares as of the date of such event.

"Change of Control" means either: (l) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation or stock transfer, but excluding any such transaction effected primarily for the purpose of changing the domicile of the Company), unless the

Company's stockholders of record immediately prior to such transaction or series of related transactions hold, immediately after such transaction or series of related transactions, at least 50% of the voting power of the surviving or acquiring entity (provided that the sale by the Company of its securities for the purposes of raising additional funds shall not constitute a Change of Control hereunder); or (2) a sale of all or substantially all of the assets of the Company.

Termination Period: This Option shall be exercisable for ninety (90) days after Optionee ceases to be a Service Provider. Upon Optionee's death or Disability, this Option shall be exercisable for one year after Optionee ceases to be Service Provider. In no event may Optionee exercise this Option after the Term/Expiration Date as provided above.

II. **AGREEMENT**

1. Grant of Option. The Administrator of the Company hereby grants to the Optionee named in the Notice of Grant in Part I of this Agreement (the "Optionee"), an option (the "Option") to purchase the number of Shares set forth in the Notice of Grant, at the exercise price per Share set forth in the Notice of Grant (the "Exercise Price"), and subject to the terms and conditions of the Plan, which is incorporated herein by reference. Subject to Section 15(c) of the Plan, in the event of a conflict between the terms and conditions of the Plan and this Option Agreement, the terms and conditions of the Plan shall prevail. If designated in the Notice of Grant as an Incentive Stock Option ("ISO"), this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code. Nevertheless, to the extent that it exceeds the $100,000 rule of Code Section 422(d), this Option shall be treated as a Nonstatutory Stock Option ("NSO").

2. Exercise of Option. This Option shall be exercisable during its term in accordance with the provisions of Section 10 of the Plan as follows:

   (a) *Right to Exercise*. This Option shall be exercisable cumulatively according to the vesting schedule set forth in the Notice of Grant. This Option may not be exercised for a fraction of a Share.

   (b) *Method of Exercise*. This Option shall be exercisable by delivery of an exercise notice in the form provided by the Company, which shall state the election to exercise the Option, the number of Shares with respect to which the Option is being exercised, and such other representations and agreements as may be required by the Company. The Exercise Notice shall be accompanied by payment of the aggregate Exercise Price as to all Exercised Shares. This Option shall be deemed to be exercised upon receipt by the Company of such fully executed Exercise Notice accompanied by the aggregate Exercise Price.

   No Shares shall be issued pursuant to the exercise of an Option unless such issuance and such exercise comply with Applicable Laws. Assuming such compliance, for income tax purposes the Shares shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Shares.

3. Optionee's Representations. In the event the Shares have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), at the time this Option is exercised, the Optionee shall, if required by the Company, concurrently with the exercise of all or any portion of this Option, deliver to the Company his or her Investment Representation Statement in the form provided by the Company.

4. Lock-Up Period. Optionee hereby agrees that Optionee shall not offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any Common Stock (or other securities) of the Company or enter into any swap, hedging or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Common Stock (or other securities) of the Company held by Optionee (other than those included in the registration) for a period specified by the representative of the underwriters of Common Stock (or other securities) of the Company not to exceed one hundred eighty (180) days following the effective date of any registration statement of the Company filed under the Securities Act.

Optionee agrees to execute and deliver such other agreements as may be reasonably requested by the Company or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by the Company or the representative of the underwriters of Common Stock (or other securities) of the Company, Optionee shall provide, within ten (10) days of such request, such information as may be required by the Company or such representative in connection with the completion of any public offering of the Company's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. The Company may impose stop-transfer instructions with respect to the shares of Common Stock (or other securities) subject to the foregoing restriction until the end of said one hundred eighty (180) day period. Optionee agrees that any transferee of the Option or shares acquired pursuant to the Option shall be bound by this Section.

5. Method of Payment. Payment of the aggregate Exercise Price shall be by any of the following, or a combination thereof, at the election of the Optionee:

(a) cash;

(b) check;

(c) consideration received by the Company under a formal cashless exercise program adopted by the Company in connection with the Plan; or

(d) surrender of other Shares which, (i) in the case of Shares acquired from the Company, either directly or indirectly, have been owned by the Optionee, and not

subject to a substantial risk of forfeiture, for more than six (6) months on the date of surrender, and (ii) have a Fair Market Value on the date of surrender equal to the aggregate Exercise Price of the Exercised Shares.

6. Restrictions on Exercise. This Option may not be exercised if the issuance of such Shares upon such exercise or the method of payment of consideration for such shares would constitute a violation of any Applicable Law.

7. Non-Transferability of Option. This Option may not be transferred in any manner otherwise than by will or by the laws of descent or distribution and may be exercised during the lifetime of Optionee only by Optionee. The terms of the Plan and this Option Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Optionee.

8. Term of Option. This Option may be exercised only within the term set out in the Notice of Grant, and may be exercised during such term only in accordance with the Plan and the terms of this Option.

9. Tax Obligations.

(a) *Withholding Taxes*. Optionee agrees to make appropriate arrangements with the Company (or the Parent or Subsidiary employing or retaining Optionee) for the satisfaction of all Federal, state, local and foreign income and employment tax withholding requirements applicable to the Option exercise. Optionee acknowledges and agrees that the Company may refuse to honor the exercise and refuse to deliver the Shares if such withholding amounts are not delivered at the time of exercise.

(b) *Notice of Disqualifying Disposition of ISO Shares*. If the Option granted to Optionee herein is an ISO, and if Optionee sells or otherwise disposes of any of the Shares acquired pursuant to the ISO on or before the later of (1) the date two years after the Date of Grant, and (2) the date one year after the date of exercise, the Optionee shall immediately notify the Company in writing within thirty (30) days after such disposition of the date and terms of such disposition. Optionee agrees that Optionee may be subject to income tax withholding by the Company on the compensation income recognized by the Optionee.

10. Entire Agreement; Governing Law. The Plan is incorporated herein by reference. The Plan and this Option Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and Optionee. This Agreement is governed by the internal substantive laws but not the choice of law rules of Delaware.

11. No Guarantee of Continued Service. OPTIONEE AGREES THAT THE VESTING OF SHARES PURSUANT TO THE VESTING SCHEDULE HEREOF IS EARNED ONLY

BY CONTINUING AS A SERVICE PROVIDER AT THE WILL OF THE COMPANY (NOT THROUGH THE ACT OF BEING HIRED, BEING GRANTED THIS OPTION OR ACQUIRING SHARES HEREUNDER). OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREUNDER AND THE VESTING SCHEDULE SET FORTH HEREIN DO NOT CONSTITUTE AN EXPRESS OR IMPLIED PROMISE OF CONTINUED ENGAGEMENT AS A SERVICE PROVIDER FOR THE VESTING PERIOD, FOR ANY PERIOD, OR AT ALL, AND SHALL NOT INTERFERE IN ANY WAY WITH OPTIONEE'S RIGHT OR THE COMPANY'S RIGHT TO TERMINATE OPTIONEE'S RELATIONSHIP AS A SERVICE PROVIDER AT ANY TIME, WITH OR WITHOUT CAUSE.

Optionee acknowledges receipt of a copy of the Plan and represents that he or she is familiar with the terms and provisions thereof, and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Option and fully understands all provisions of the Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan or this Option. Optionee further agrees to notify the Company upon any change in the residence address indicated below.

12. Non-competition; Non-solicitation. In connection with Optionee's employment with the Company, Optionee and Company have entered into a Confidentiality, Non-Competition, Non-Solicitation and Inventions Agreement dated as of [date] (the "Agreement"). In consideration of the Option, the Optionee hereby (i) reaffirms his or her obligations under the Agreement, and (ii) consents and agrees that in the event of a breach or threatened breach by Optionee of any of the terms and conditions of the Agreement (each and all of which are hereby incorporated by reference):

    a. any unvested portion of the Option shall be forfeited effective as of the date of such breach, unless sooner terminated by operation of another term or condition of this Agreement or the Plan; and

    b. the Company shall be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages or other available forms of relief.

[signatures on following page]

SIGNATURE PAGE TO STOCK OPTION AGREEMENT – [EMPLOYEE NAME]

"OPTIONEE"

_____

[Employee Name]
[Employee Address]
[City, State Zip]

TREACE MEDICAL CONCEPTS, INC.

_____

John T. Treace,
Chief Executive Officer

Exhibit 10.2(d)

2014 STOCK PLAN FORM OF EXERCISE NOTICE

Treace Medical Concepts, Inc.
203 Fort Wade Rd., Suite 150
Ponte Vedra, FL 32081

Attention: Chief Financial Officer

1. Exercise of Option. Effective as of , the undersigned ("Optionee") hereby elects to exercise Optionee's option (the "Option") to purchase shares of Class A Common Stock (the "Shares") of Treace Medical Concepts, Inc. (the "Company") under and pursuant to the 2014 Stock Plan (the "Plan") and the Stock Option Agreement dated (the "Option Agreement").

2. Delivery of Payment. Optionee herewith delivers to the Company the full purchase price of the Shares, as set forth in the Option Agreement, and any and all withholding taxes due in connection with the exercise of the Option.

3. Representations of Optionee. Optionee acknowledges that Optionee has received, read and understood the Plan and the Option Agreement and agrees to abide by and be bound by their terms and conditions.

4. Rights as Stockholder. Until the issuance of the Shares (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company), no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. The Shares shall be issued to the Optionee as soon as practicable after the Option is exercised in accordance with the Option Agreement. No adjustment shall be made for a dividend or other right for which the record date is prior to the date of issuance except as provided in Section 13 of the Plan.

5. Company's Right of First Refusal. Before any Shares held by Optionee or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section (the "Right of First Refusal").

   (a) *Notice of Proposed Transfer*. The Holder of the Shares shall deliver to the Company a written notice (the "Notice") stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

   (b) *Exercise of Right of First Refusal*. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) *Purchase Price*. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this Section shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) *Payment.* Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within 30 days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) *Holder's Right to Transfer.* If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, provided that such sale or other transfer is consummated within 120 days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) *Exception for Certain Family Transfers*. Anything to the contrary contained in this Section notwithstanding, the transfer of any or all of the Shares during the Optionee's lifetime or on the Optionee's death by will or intestacy to the Optionee's immediate family or a trust for the benefit of the Optionee's immediate family shall be exempt from the provisions of this Section. "Immediate Family" as used herein shall mean spouse, lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section, and there shall be no further transfer of such Shares except in accordance with the terms of this Section.

(g) *Termination of Right of First Refusal*. The Right of First Refusal shall terminate as to any Shares upon the earlier of (i) first sale of Common Stock of the Company to the general public, or (ii) a Change in Control in which the successor corporation has equity securities that are publicly traded.

(h) *Stockholders Agreement; Preemption*. The Optionee hereby agrees to enter into and become a party to any stockholders or similar agreement to which the Company is a party, including the Amended and Restated Stockholders' Agreement dated December 31, 2014, among the Company and certain stockholders of the Company, as any such agreement may be amended, restated, supplemented, or otherwise modified from time to time (as applicable, the "Stockholders' Agreement"). In furtherance of the foregoing, the Optionee hereby irrevocably constitutes and appoints the Company and any officer or agent thereof, with full power of substitution, as his true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Optionee and in the name of the Optionee, from time to time in the Company's discretion, for the limited purpose executing and delivering the Stockholders' Agreement or a joinder thereto on behalf of the Optionee. All powers, authorizations and agencies contained in this Section 5(h) are coupled with an interest and are irrevocable. If the Optionee has entered into the Stockholders' Agreement and remains bound by the terms thereof, then any proposed sale, pledge or other transfer to a third party of any Shares, or any interest in

Shares, by the Optionee shall be governed by the terms and conditions of the Stockholders Agreement' and not by Section 5(a) through Section 5(g) of this Agreement, it being the intent of the parties that the terms and conditions of the Stockholders' Agreement shall preempt the provisions of this Agreement with respect to any such transaction.

6. Tax Consultation. Optionee understands that Optionee may suffer adverse tax consequences as a result of Optionee's purchase or disposition of the Shares. Optionee represents that Optionee has consulted with any tax consultants Optionee deems advisable in connection with the purchase or disposition of the Shares and that Optionee is not relying on the Company for any tax advice.

7. Restrictive Legends and Stop-Transfer Orders.

(a) *Legends*. Optionee understands and agrees that the Company shall cause the legends set forth below or legends substantially equivalent thereto, to be placed upon any certificate(s) evidencing ownership of the Shares together with any other legends that may be required by the Company or by state or federal securities laws:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT") AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR, IN THE OPINION OF COUNSEL SATISFACTORY TO THE ISSUER OF THESE SECURITIES, SUCH OFFER, SALE OR TRANSFER, PLEDGE OR HYPOTHECATION IS IN COMPLIANCE THEREWITH.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER AND A RIGHT OF FIRST REFUSAL HELD BY THE ISSUER OR ITS ASSIGNEE(S) AS SET FORTH IN THE EXERCISE NOTICE BETWEEN THE ISSUER AND THE ORIGINAL HOLDER OF THESE SHARES, A COPY OF WHICH MAY BE OBTAINED AT THE PRINCIPAL OFFICE OF THE ISSUER. SUCH TRANSFER RESTRICTIONS AND RIGHT OF FIRST REFUSAL ARE BINDING ON TRANSFEREES OF THESE SHARES.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR A PERIOD NOT TO EXCEED 180 DAYS FOLLOWING THE EFFECTIVE DATE OF THE UNDERWRITTEN PUBLIC OFFERING OF THE COMPANY'S SECURITIES AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF BY THE HOLDER WITHOUT THE CONSENT OF THE COMPANY.

THIS STOCK CERTIFICATE AND THE SHARES REPRESENTED THEREBY IS ISSUED AND SHALL BE HELD SUBJECT TO THOSE PARTICULAR QUALIFICATIONS, LIMITATIONS AND RESTRICTIONS CONCERNING THE SALE OR TRANSFER OF STOCK AS SET FORTH IN THE AMENDED AND RESTATED STOCKHOLDERS' AGREEMENT BY AND AMONG THE CORPORATION AND ITS STOCKHOLDERS DATED DECEMBER 31, 2014, WHICH MATTERS ARE HEREBY REFERRED TO AND MADE A PART HEREOF, TO ALL OF WHICH THE HOLDER OF THIS CERTIFICATE ASSENTS.

(b) *Stop-Transfer Notices*. Optionee agrees that, in order to ensure compliance with the restrictions referred to herein, the Company may issue appropriate "stop transfer" instructions to its transfer agent, if any, and that, if the Company transfers its own securities, it may make appropriate notations to the same effect in its own records.

(c) *Refusal to Transfer*. The Company shall not be required (i) to transfer on its books any Shares that have been sold or otherwise transferred in violation of any of the provisions of this Exercise Notice or (ii) to treat as owner of such Shares or to accord the right to vote or pay dividends to any purchaser or other transferee to whom such Shares shall have been so transferred.

8. Successors and Assigns. The Company may assign any of its rights under this Exercise Notice to single or multiple assignees, and this Exercise Notice shall inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer herein set forth, this Exercise Notice shall be binding upon Optionee and his or her heirs, executors, administrators, successors and assigns.

9. Interpretation. Any dispute regarding the interpretation of this Exercise Notice shall be submitted by Optionee or by the Company forthwith to the Administrator, which shall review such dispute at its next regular meeting. The resolution of such a dispute by the Administrator shall be final and binding on all parties.

10. Governing Law; Severability. This Exercise Notice is governed by the internal substantive laws, but not the choice of law rules, of Delaware.

11. Entire Agreement. The Plan and Option Agreement are incorporated herein by reference. This Exercise Notice, the Plan, the Restricted Stock Purchase Agreement, the Option Agreement and the Investment Representation Statement and, if applicable, the Stockholders' Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior undertakings and agreements of the Company and Optionee with respect to the subject matter hereof, and may not be modified adversely to the Optionee's interest except by means of a writing signed by the Company and Optionee.

Submitted by:

OPTIONEE

_____

[Name]
[Address]

Accepted by:

TREACE MEDICAL CONCEPTS, INC.

_____

Kirk Brennan
VP, Controller

203 Fort Wade Rd., Suite 150
Ponte Vedra, FL 32081

Date Received: _____

INVESTMENT REPRESENTATION STATEMENT

OPTIONEE NAME: _____

COMPANY SECURITY: TREACE MEDICAL CONCEPTS, INC. COMMON STOCK

AMOUNT: _____ shares of Class A Common Stock

DATE: _____

In connection with the purchase of the above-listed Securities, the undersigned Optionee represents to the Company the following:

(a) Optionee is aware of the Company's business affairs and financial condition and has acquired sufficient information about the Company to reach an informed and knowledgeable decision to acquire the Securities. Optionee is acquiring these Securities for investment for Optionee's own account only and not with a view to, or for resale in connection with, any "distribution" thereof within the meaning of the Securities Act of 1933, as amended (the "Securities Act").

(b) Optionee acknowledges and understands that the Securities constitute "restricted securities" under the Securities Act and have not been registered under the Securities Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of Optionee's investment intent as expressed herein. In this connection, Optionee understands that, in the view of the Securities and Exchange Commission, the statutory basis for such exemption may be unavailable if Optionee's representation was predicated solely upon a present intention to hold these Securities for the minimum capital gains period specified under tax statutes, for a deferred sale, for or until an increase or decrease in the market price of the Securities, or for a period of one year or any other fixed period in the future. Optionee further understands that the Securities must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available. Optionee further acknowledges and understands that the Company is under no obligation to register the Securities. Optionee understands that the certificate evidencing the Securities will be imprinted with any legend required under applicable state securities laws or by the Company.

(c) Optionee is familiar with the provisions of Rule 701 and Rule 144, each promulgated under the Securities Act, which, in substance, permit limited public resale of "restricted securities" acquired, directly or indirectly from the issuer thereof, in a non-public offering subject to the satisfaction of certain conditions. Rule 701 provides that if the issuer qualifies under Rule 701 at the time of the grant of the Option to the Optionee, the exercise will be exempt from registration under the Securities Act. In the event the Company becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, ninety (90) days thereafter (or such longer period as any market stand-off agreement may require) the Securities exempt under Rule 701 may be resold, subject to the satisfaction of certain of the conditions specified by Rule 144, including: (l) the resale being made through a broker in an unsolicited "broker's transaction" or in transactions directly with a market maker (as said term is defined under the Securities Exchange Act of 1934); and, in the case of an affiliate,(2) the availability of certain public information about the Company, (3) the amount of Securities being sold during any three month period not exceeding the limitations specified in Rule 144(e), and (4) the timely filing of a Form 144, if applicable.

In the event that the Company does not qualify under Rule 701 at the time of grant of the Option, then the Securities may be resold in certain limited circumstances subject to the provisions of Rule 144, which

requires the resale to occur after the applicable holding period set forth in Rule 144; and, in the case of acquisition of the Securities by an affiliate, or by a non-affiliate who subsequently holds the Securities less than the prescribed holding period, the satisfaction of the conditions set forth in sections (1), (2), (3) and (4) of the paragraph immediately above.

(d) Optionee further understands that in the event all of the applicable requirements of Rule 701 or 144 are not satisfied, registration under the Securities Act, compliance with Regulation A, or some other registration exemption will be required; and that, notwithstanding the fact that Rules 144 and 701 are not exclusive, the Staff of the Securities and Exchange Commission has expressed its opinion that persons proposing to sell private placement securities other than in a registered offering and otherwise than pursuant to Rules 144 or 701 will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales, and that such persons and their respective brokers who participate in such transactions do so at their own risk. Optionee understands that no assurances can be given that any such other registration exemption will be available in such event.

Signature of Optionee:

_____

[Name]
[Address]

TERM LOAN AGREEMENT

dated as of

July 31, 2020

among

TREACE MEDICAL CONCEPTS, INC.,
as Borrower,

the Subsidiary Guarantors from time to time party hereto,

the Lenders from time to time party hereto

and

CRG SERVICING LLC,
as Administrative Agent and Collateral Agent

U.S. $50,000,000

TABLE OF CONTENTS

SCHEDULES AND EXHIBITS

This TERM LOAN AGREEMENT is entered into as of July 31, 2020 (this "***Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), the Subsidiary Guarantors from time to time party hereto, the Lenders from time to time party hereto and CRG SERVICING LLC, a Delaware limited liability company ("***CRG Servicing***"), as administrative agent and collateral agent for the Lenders (in such capacities, together with its successors and assigns, "***Administrative Agent***").

WITNESSETH:

WHEREAS, Borrower has requested the Lenders to make term loans to Borrower, and the Lenders are prepared to make such term loans on and subject to the terms and conditions hereof;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

SECTION 1
DEFINITIONS

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

"***acceleration***" and "***Acceleration***" have the meanings set forth in **Section 11.02**.

"***Acceleration Premium***" has the meaning set forth in **Section 11.02(c)**.

"***Accounting Change Notice***" has the meaning set forth in **Section 1.04(a)**.

"***Acquisition***" means any transaction, or any series of related transactions, by which any Person directly or indirectly, by means of a take-over bid, tender offer, amalgamation, merger, purchase or license of assets, or any similar transaction, (a) acquires any business or product, or any division, product, service, procedure or line of business or all or any substantial portion of the assets, in each case, of any Person, (b) acquires control of securities of a Person representing more than fifty percent (50%) of the ordinary voting power for the election of the Board of such Person if the business affairs of such Person are managed by a Board, or (c) acquires control of more than fifty percent (50%) of the ownership interest in a Person that is not managed by a Board.

"***Act***" has the meaning set forth in **Section 13.17**.

"***Affected Lender***" has the meaning set forth in **Section 2.06(a)**.

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

"***Agreement***" has the meaning set forth in the introduction hereto.

"***Anti-Corruption Laws***" means all laws, rules, and regulations of any jurisdiction applicable to any Obligor, its Subsidiaries or its Affiliates from time to time concerning or relating to bribery or corruption, including the United States Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"***Anti-Money Laundering Laws***" means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules applicable to an Obligor, its Subsidiaries or its Affiliates related to terrorism financing or money laundering, including any applicable provision of the Act and The Currency and Foreign Transaction Reporting Act (also known as the "Bank Secrecy Act," 31 U.S.C. §§5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

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

"***Asset Sale Net Proceeds***" means the aggregate amount of the cash proceeds received from any Asset Sale or Involuntary Disposition *plus*, with respect to any non-cash proceeds of an Asset Sale or Involuntary Disposition, the fair market value of such non-cash proceeds as determined by Administrative Agent, acting reasonably, net of (a) any bona fide costs and expenses incurred in connection with such Asset Sale or Involuntary Disposition, as applicable, (b) income, franchise, sales and other applicable taxes paid or required to be paid (as reasonably estimated in good faith by Borrower) as a result of such Asset Sale or Involuntary Disposition, as applicable, in respect of the taxable year such Asset Sale or Involuntary Disposition, as applicable, is consummated, the computation of which shall, in each case take into account the reduction in tax liability resulting from any available operating losses, net operating loss carryovers, tax credits, tax carry forwards or similar tax attributes, or deductions and any tax sharing arrangements and (c) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness (other than the Obligations) secured by a Permitted Priority Lien on the asset which is the subject of such Asset Sale or Involuntary Disposition, as applicable.

"***Assignment and Assumption***" means an assignment and assumption entered into by a Lender and an assignee of such Lender.

"***Back-End Facility Fee***" has the meaning set forth in the Fee Letter.

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

"***Benefit Plan***" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "***employee benefit plan***" or "***plan***."

"***Board***" means (a) with respect to a corporation, the board of directors of the corporation or any committee thereof to the extent duly authorized to act on behalf of such board, (b) with respect to a partnership, the board of directors of the general partner of the partnership, (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or if not member-managed, the managers thereof, or any committee of managing members or managers thereof to the extent duly authorized to act on behalf of such Persons, and (d) with respect to any other Person, the board or committee of such Person serving a similar function.

"***Board Observation Termination Date***" means the earlier to occur of (a) the consummation of a Qualifying IPO and (b) Borrower shall have delivered to Administrative Agent a certificate signed by a Responsible Officer of Borrower demonstrating that Revenues for any twelve (12) consecutive month period ending after the Closing Date were greater than or equal to $60,000,000 (with such supporting evidence as Administrative Agent shall reasonably request).

"***Borrower***" has the meaning set forth in the introduction hereto.

"***Borrower Party***" has the meaning set forth in **Section 13.03(b)**.

"***Borrowing***" means a borrowing consisting of Loans made on the same day by the Lenders according to their respective Commitments (including a borrowing of a PIK Loan).

"***Borrowing Date***" means the date of a Borrowing.

"***Borrowing Notice Date***" means, (a) in the case of the Borrowing on the Initial Funding Date, a date that is at least one (1) Business Day prior to the Initial Funding Date and, (b) in the case of a subsequent Borrowing (other than with respect to a PIK Loan), a date that is at least fifteen (15) Business Days prior to the Borrowing Date of such Borrowing.

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

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

"***Change of Control***" means (a) at any time prior to the consummation of a Qualifying IPO, the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group of Persons acting jointly or otherwise in concert, in each case, other than the Permitted Holders, of Equity Interests representing more than fifty percent (50%) of the aggregate ordinary voting power for the election of the Board of Borrower represented by the issued and outstanding Equity Interests of Borrower on a fully-diluted basis, (b) at any time prior to the consummation of a Qualifying IPO, the acquisition of direct or indirect Control of Borrower by any Person or group of Persons (other than the Permitted Holders) acting jointly or otherwise in concert; in each case whether as a result of a tender or exchange offer, open market purchases, privately negotiated purchases or otherwise, (c) at any time upon or after the consummation of a Qualifying IPO, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934), other than the Permitted Holders, is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of Equity Interests representing thirty-five percent (35%) or more of the aggregate ordinary voting power in the election of the Board of Borrower represented by the issued and outstanding Equity Interests of the Borrower on a fully diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right) or (d) any "Change of Control" (or any equivalent term) shall occur under any documentation governing Material Indebtedness.

"***Claims***" means any claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes, assessments or reassessments.

"***Closing Date***" means July 31, 2020.

"***Code***" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

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

"***Commitment***" means, with respect to each Lender, the obligation of such Lender to make Loans to Borrower pursuant to **Section 2.01** in accordance with the terms and conditions of this Agreement, which commitment is in the principal amount set forth opposite such Lender's name on **Schedule 1** under the caption "Commitment," as such Schedule may be amended from time to time. The aggregate amount of the Commitments on the Closing Date is $50,000,000. For purposes of clarification, the amount of any PIK Loans shall not reduce the amount of the available Commitment.

"***Commitment Period***" means the period from and including the first date on which all of the conditions precedent set forth in **Section 6.01** have been satisfied (or waived by the Lenders) and through and including December 31, 2021.

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

"***Compliance Certificate***" has the meaning given to such term in **Section 8.01(c)**.

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

"***Contracts***" means contracts, licenses, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements under which a Person has, or will have, any liability or contingent liability (in each case, whether written or oral, express or implied).

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

"***Controlled Foreign Corporation***" means a "controlled foreign corporation" as defined in Section 957(a) of the Code.

"***Copyright***" has the meaning set forth in the Security Agreement.

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

"***Default Rate***" has the meaning set forth in **Section 3.02(b)**.

"***Defaulting Lender***" means, subject to **Section 2.05**, any Lender that (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans, within three (3) Business Days of the date required to be funded by it hereunder, (b) has notified Borrower or any Lender that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit, or (c) has, or has a direct or indirect parent company that has, (i) become the subject of an Insolvency Proceeding, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, or (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment; *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.

"***Deposit Account***" is defined in the Security Agreement.

"***Disqualified Equity Interest***" means any Equity Interest of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is putable or exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, prior to the one hundred eighty-first (181st) day after the Stated Maturity Date, (b) requires the payment of any cash dividends at any time prior to the one hundred eighty-first (181st) day after the Stated Maturity Date, (c) contains any repurchase obligation which may come into effect prior to the Stated Maturity Date, or (d) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Equity Interests referred to in **clause (a)**, **(b)** or **(c)** above, at any time prior to the one hundred eighty-first (181st) day after the Stated Maturity Date; *provided*, that (x) any Equity Interests that would not constitute Disqualified Equity Interests but for provisions thereof giving holders thereof (or the holders of any security into or for which such Equity Interests are convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem or repurchase such Equity Interests upon the occurrence of a change in control or an asset sale occurring prior to the one hundred eighty-first (181st) day after the Stated Maturity Date shall not constitute Disqualified Equity Interests to the extent that such Equity Interests provide that the issuer thereof will not redeem or repurchase any such Equity Interests pursuant to such provisions prior to the termination of all Commitments and repayment in full of the Obligations (other than contingent indemnification obligations for which no claim has been made) and (y) if any Equity Interest is issued to any current or former employee, director

or consultant or to any plan for the benefit of current or former employees, directors or consultants of Borrower or any of its Subsidiaries or by any such plan to such current or former employees, directors or consultants, such Equity Interest will not constitute Disqualified Equity Interests solely because it may be required to be repurchased by Borrower or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"***Dollars***" and "**$**" means lawful money of the United States of America.

"***Domestic Subsidiary***" means any Subsidiary that is organized under the laws of any state of the United States or the District of Columbia.

"***Eligible Transferee***" means and includes a commercial bank, an insurance company, a finance company, a financial institution, any investment fund that invests in loans or any other "accredited investor" (as defined in Regulation D of the Securities Act) that is principally in the business of managing investments or holding assets for investment purposes.

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

"***Environmental Liability***" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Material, (c) any exposure to any Hazardous Material, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

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

"***Equivalent Amount***" means, with respect to an amount denominated in one currency, the amount in another currency that could be purchased by the amount in the first currency determined by reference to the Exchange Rate at the time of determination.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

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

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

Section 501(a) of the Code; (q) the imposition of any lien (or the fulfillment of the conditions for the imposition of any lien) on any of the rights, properties or assets of any Obligor or any ERISA Affiliate thereof, in either case pursuant to Title I or IV, including Section 302(f) or 303(k) of ERISA or to Section 401(a)(29) or 430(k) of the Code; or (r) the establishment or amendment by any Obligor or any Subsidiary thereof of any "welfare plan," as such term is defined in Section 3(1) of ERISA, that provides post-employment welfare benefits in a manner that would increase the liability of any Obligor.

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

"***Event of Default***" has the meaning set forth in **Section 11.01**.

"***Exchange Rate***" means the rate at which any currency (the "***Pre-Exchange Currency***") may be exchanged into another currency (the "***Post-Exchange Currency***"), as set forth on such date on the relevant Reuters screen at or about 11:00 a.m. (Central time) on such date. In the event that such rate does not appear on the Reuters screen, the "Exchange Rate" with respect to exchanging such Pre-Exchange Currency into such Post-Exchange Currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by Borrower and Administrative Agent or, in the absence of such agreement, such Exchange Rate shall instead be determined by Administrative Agent by any reasonable method as it deems applicable to determine such rate, and such determination shall be conclusive absent manifest error.

"***Excluded Subsidiary***" means any Subsidiary that is (a) a Controlled Foreign Corporation, (b) a FSHCo or (c) a Subsidiary owned by a Subsidiary described in **clause (a)**, and, in each case, and is not itself a Subsidiary Guarantor.

"***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 (ii) that are Other Connection Taxes, (b) U.S. Federal withholding Taxes that are imposed on amounts payable to a Lender to the extent that the obligation to withhold amounts existed on the date that such Lender became a "Lender" under this Agreement (other than pursuant to an assignment request by Borrower under **Section 5.03(g)**), except in each case to the extent such Lender is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment of such other Lender became effective, to receive additional amounts under **Section 5.03**, (c) any withholding Taxes imposed under FATCA, and (d) Taxes attributable to such Recipient's failure to comply with **Section 5.03(e)**.

"***Existing Loan Agreement***" means that certain Loan and Security Agreement, dated as of April 18, 2018, by and between the Borrower and Silicon Valley Bank, as amended, restated, supplemented or otherwise modified prior to the Closing Date.

"***Expense Cap***" has the meaning set forth in the Fee Letter.

"***FATCA***" means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not more onerous to comply with), any 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 and implementing such Sections of the Code.

"***Federal Funds Effective Rate***" means, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by Administrative Agent from three federal funds brokers of recognized standing selected by it.

"***Fee Letter***" means that fee letter agreement dated as of the Closing Date between Borrower and Administrative Agent.

"***First PIK Period***" means the period beginning on the Closing Date through and including the earlier to occur of (a) the second (2nd) Payment Date and (b) at the election of the Majority Lenders, the date on which any Event of Default shall have occurred (*provided*, that if such Event of Default shall have been cured or waived, the First PIK Period shall resume until the earlier to occur of the next Event of Default (subject to the election of the Majority Lenders) and the second (2nd) Payment Date).

"***First-Tier Excluded Subsidiary***" means an Excluded Subsidiary that is a direct Subsidiary of an Obligor and is not itself a Subsidiary Guarantor.

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

"***Foreign Subsidiary***" means a Subsidiary that is not a Domestic Subsidiary.

"***FSHCo***" means any Subsidiary substantially all the assets of which consist of Equity Interests of (or Equity Interests of and debt obligations owed or treated as owed by) one or more Excluded Subsidiaries.

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

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

"***Governmental Authority***" means any nation, government, branch of power (whether executive, legislative or judicial), state, province or municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, monetary, regulatory or administrative functions of or pertaining to government, including regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, courts, bodies, boards, tribunals and dispute settlement panels, and other law-, rule- or regulation-making organizations or entities of any State, territory, county, city or other political subdivision of the United States.

"***Guarantee***" of or by any Person (the "***guarantor***") means (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness in **clauses (a)** through **(f)** and **(h)** through **(m)** of the definition thereof or other obligation of any other Person (the "***primary obligor***") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation or (b) any Lien on any assets of the guarantor securing any Indebtedness in **clauses (a)** through **(f)** and **(h)** through **(m)** of the definition thereof or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by the guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided*, that if such Indebtedness or other obligation has not been assumed or undertaken by the guarantor, then the amount of such Guarantee shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness or other obligation and (y) the fair market value of the property encumbered thereby as determined by the guarantor in good faith; *provided*, *further*, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business or indemnification obligations incurred in the ordinary course of business or in connection with transactions permitted under this Agreement. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

"***Guarantee Assumption Agreement***" means a Guarantee Assumption Agreement substantially in the form of **Exhibit A** by a Person that, pursuant to **Section 8.12(a)**, is required to become a "Subsidiary Guarantor" hereunder.

"***Guaranteed Obligations***" has the meaning set forth in **Section 14.01**.

"***Hazardous Material***" means any substance, element, chemical, compound, product, solid, gas, liquid, waste, by-product, pollutant, contaminant or material which is hazardous or toxic, and includes (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any material classified or regulated as "hazardous" or "toxic" or words of like import pursuant to an Environmental Law.

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

"***Indebtedness***" of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services, (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed (valued, in the case that such Indebtedness or other obligation has not been assumed by such Person, at the lesser of (x) the aggregate unpaid amount of such Indebtedness or other obligation and (y) the fair market value of the property encumbered thereby as determined by such Person in good faith), (f) all Guarantees by such Person of Indebtedness or other obligations of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations under any Hedging Agreement currency swaps, forwards, futures or derivatives transactions, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all obligations of such Person under license or other agreements (other than non-exclusive licenses in the ordinary course of business consistent with past practices) containing a guaranteed minimum payment or purchase by such Person, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Disqualified Equity Interests of such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference *plus* accrued and unpaid dividends. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner or any joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a joint venturer) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness expressly provide that such Person is not liable therefor.

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

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

"***Initial Funding Date***" means August 3, 2020.

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

"***Intercreditor Agreement***" means an intercreditor agreement by and between the Administrative Agent and the lender of any Permitted Priority Debt in respect of such Permitted Priority Debt, in the form attached hereto as **Exhibit F**, with such changes as are reasonably acceptable to Administrative Agent.

"***Intellectual Property***" means all Patents, Trademarks, Copyrights, Technical Information, domain names and URLs, and all other intellectual property or property rights, whether registered or not, domestic and foreign. Intellectual Property shall include all:

(a) applications and registrations relating to such Intellectual Property;

(b) rights and privileges arising under applicable Laws with respect to such Intellectual Property;

(c) rights to sue for past, present and future infringements of such Intellectual Property; and

(d) rights of the same or similar effect or nature in any jurisdiction corresponding to such Intellectual Property throughout the world.

"***Interest-Only Period***" means the period from and including the Closing Date and through and including the nineteenth (19th) Payment Date.

"***Interest Period***" means, with respect to each Borrowing, (a) initially, the period commencing on and including the Borrowing Date thereof and ending on and excluding the next Payment Date, and, (b) thereafter, each period beginning on and including the last day of the immediately preceding Interest Period and ending on and excluding the earlier of (x) the next succeeding Payment Date and (y) the Maturity Date; *provided*, that the Interest Period ending on the Maturity Date shall include the Maturity Date.

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

"***Investment***" means, for any Person, any direct or indirect acquisition or investment by such Person, whether by means of: (a) the acquisition (whether for cash, property, services or securities or otherwise) of Equity Interests, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person or any agreement to make any such acquisition (including any "short sale" or any sale of any securities at a time when such securities are not owned by the Person entering into such sale); (b) the making of any deposit with, or

advance, loan or other extension of credit to, any other Person (including the purchase of property from another Person subject to an understanding or agreement, contingent or otherwise, to resell such property to such Person), but excluding any such advance, loan or extension of credit having a term not exceeding ninety (90) days arising in connection with the sale of inventory or supplies by such Person in the ordinary course of business; (c) the entering into of any Guarantee of, or other contingent obligation with respect to, Indebtedness or other liability of any other Person and (without duplication) any amount committed to be advanced, lent or extended to such Person; (d) the entering into of any Hedging Agreement; or (e) an Acquisition.

"***Involuntary Disposition***" means any loss of, damage to or destruction of, or any condemnation or other taking for public use of, any property of Borrower or any Subsidiary.

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

"***Knowledge***" means, with respect to any Person, the actual knowledge of any Responsible Officer of such Person and, including, in the case of Borrower or any Subsidiary, so long as he or she is employed by Borrower or any of its Subsidiaries, the actual knowledge of John T. Treace, Robert P. Jordheim or Jaime A. Frias.

"***Landlord Consent***" means a Landlord Consent substantially in the form of **Exhibit E**, or such other form as is reasonably acceptable to Administrative Agent.

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

"***Lender***" means each Person listed as a "Lender" on a signature page hereto, together with its successors, and each permitted assignee of a Lender pursuant to **Section 13.05(b)**.

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

"***Liquidity***" means the balance of unencumbered (other than by Liens described in **Sections 9.02(a)**, **9.02(c)** (*provided*, that there is no "event of default" (or equivalent term) under the documentation governing the Permitted Priority Debt) and **9.02(p)**) cash and Permitted Cash Equivalent Investments (which for greater certainty shall not include any undrawn credit lines), in each case to the extent held in an account over which either (a) the Administrative Agent, on behalf of the Secured Parties, has a perfected security interest or (b) the lender of the Permitted Priority Debt (or any collateral agent thereof) has a perfected security interest securing the Permitted Priority Debt.

"***Loan***" means (a) each loan advanced by a Lender pursuant to **Section 2.01** and (b) each PIK Loan deemed to have been advanced by a Lender pursuant to **Section 3.02(d)**. For purposes of clarification, any calculation of the aggregate outstanding principal amount of Loans on any date of determination shall include both the aggregate principal amount of loans advanced pursuant to **Section 2.01** and not yet repaid, and all PIK Loans deemed to have been advanced and not yet repaid, on or prior to such date of determination.

"***Loan Documents***" means, collectively, this Agreement, the Fee Letter, the Security Documents, the Management Rights Letter, the Perfection Certificate, any subordination agreement or any intercreditor agreement entered into by Administrative Agent (on behalf of the Secured Parties) with any other creditors of Obligors or any agent acting on behalf of such creditors (including, without limitation, each Intercreditor Agreement), and any other present or future document, instrument, agreement or certificate executed by Obligors and delivered to Administrative Agent or any Secured Party in connection with or pursuant to this Agreement or any of the other Loan Documents, all as amended, restated, supplemented or otherwise modified.

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

"***Majority Lenders***" means, at any time, Lenders having at such time in excess of fifty percent (50%) of the aggregate Total Credit Exposures of all Lenders at such time, ignoring, in such calculation, the Commitments of and outstanding Loans owing to any Defaulting Lender.

"***Management Rights Letter***" means that certain management rights letter dated as of the Closing Date delivered by Borrower in favor of CRG Partners IV L.P.

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

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

"***Material Agreements***" means (a) all material inbound and outbound license agreements to which Borrower or any of its Subsidiaries is a party and (b) all other agreements to which Borrower or any of its Subsidiaries is a party from time to time, the absence, breach, non-performance or termination of any one of which, or of any series of related agreements of which, could reasonably be expected to result in a Material Adverse Effect.

"***Material Indebtedness***" means, at any time, (a) any Indebtedness of Borrower or any Subsidiary, the outstanding principal amount of which, individually or in the aggregate, exceeds $500,000 (or the Equivalent Amount in other currencies), (b) any Permitted Priority Debt and (c) any Permitted PPP Debt.

"***Material Intellectual Property***" means, the Obligor Intellectual Property described in **Schedule 7.05(c)** and any other Obligor Intellectual Property after the Closing Date that is material to any Obligor's business or assets.

"***Maturity Date***" means the earlier to occur of (a) the Stated Maturity Date, and (b) the date on which the Loans are accelerated pursuant to **Section 11.02**.

"***Maximum Rate***" has the meaning set forth in **Section 13.18**.

"***Multiemployer Plan***" means any multiemployer plan, as defined in Section 400l(a)(3) of ERISA, to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

"***Non-Consenting Lender***" has the meaning set forth in **Section 2.06(a)**.

"***Non-Disclosure Agreement***" has the meaning set forth in **Section 13.16**.

"***Non-Prepayment Basket***" has the meaning set forth in **Section 11.02(c)(i)**.

"***Notice of Borrowing***" has the meaning set forth in **Section 2.02**.

"***Obligations***" means, with respect to any Obligor, all amounts, obligations, liabilities, covenants and duties of every type and description owing by such Obligor to Administrative Agent, any Lender, any other indemnitee hereunder or any participant, arising out of, under, or in connection with, any Loan Document, whether direct or indirect (regardless of whether acquired by assignment), absolute or contingent, due or to become due, whether liquidated or not, now existing or hereafter arising and however acquired, and whether or not evidenced by any instrument or for the payment of money, including, without duplication, (a) all Loans, (b) all interest, whether or not accruing after the filing of any petition in bankruptcy or after the commencement of any insolvency, reorganization or similar proceeding, and whether or not a claim for post-filing or post-petition interest is allowed in any such proceeding, and (c) all other fees, expenses (including fees, charges and disbursements of counsel), interest, commissions, charges, costs, disbursements, indemnities and reimbursement of amounts paid and other sums chargeable to such Obligor under any Loan Document.

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

"***Obligors***" means, collectively, Borrower and the Subsidiary Guarantors and their respective successors and permitted assigns.

"***OFAC***" means the Office of Foreign Assets Control of the United States Department of the Treasury.

"***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 5.03(g)**).

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

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

"***Patents***" has the meaning set forth in the Security Agreement.

"***Paycheck Protection Program***" means the Small Business Administration's Paycheck Protection Program under the Coronavirus Aid, Relief, and Economic Security Act.

"***Payment Date***" means (a) each March 31, June 30, September 30 and December 31 (commencing on the first such date to occur at least thirty (30) days after the Closing Date) and (b) the Maturity Date; *provided*, that if any such date shall occur on a day that is not a Business Day, the applicable Payment Date shall be the next preceding Business Day.

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

"***Perfection Certificate***" means that certain Perfection Certificate, dated as of the Closing Date delivered by the Obligors to Administrative Agent.

"***Permitted Acquisition***" means any Acquisition by an Obligor; *provided*, that:

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

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

(c) in the case of (i) the Acquisition of the Equity Interests of any Person, all of the Equity Interests (except for any such Equity Interests in the nature of directors' qualifying shares required pursuant to applicable Law) acquired or otherwise issued or issuable by such Person, and any Subsidiary formed in connection with such Acquisition, shall be owned one hundred percent (100%) by an Obligor or any Subsidiary thereof, and the Obligors shall have taken, or caused to be taken, within thirty (30) days (or such longer time as consented to by Administrative Agent in writing) of the date such Person becomes a Subsidiary, each of the actions set forth in **Section 8.12**, if applicable and (ii) the acquisition of Property, such Property (other than any Excluded Assets (as defined in the Security Agreement)) shall be subject to a perfected, valid and enforceable first priority (subject to Permitted Priority Liens) Lien in favor of Administrative Agent to the extent required pursuant to **Section 8.12**;

(d) the Obligors shall be in compliance with the financial covenants set forth in **Section 10.01** and **Section 10.02** on a *pro forma* basis after giving effect to such Acquisition;

(e) such Person (in the case of an Acquisition of Equity Interests) or assets (in the case of an Acquisition of assets, a division or a line of business) shall be engaged or used, as the case may be, (i) in the same business or lines of business in which Borrower and/or its Subsidiaries are engaged or (ii) shall have a similar, related or complementary customer base as Borrower and/or its Subsidiaries;

(f) such Acquisition shall not be a "hostile" Acquisition and shall have been approved by the Board and/or the shareholders (or equivalent) of the applicable Obligor and the target of such Acquisition; and

(g) the Obligors shall have notified Administrative Agent and Lenders of such Acquisition not fewer than five (5) days prior to the consummation of such Acquisition and furnished to Administrative Agent copies of audited and unaudited financial statements, if any, received from the target and any other financial information or quality of earnings analysis produced by an accounting firm or independent advisor for the use of Borrower and its Subsidiaries.

"***Permitted Cash Equivalent Investments***" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or State thereof having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (c) Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by any commercial bank that is organized under the laws of the United States, any state thereof or the District of Columbia and (d) money market funds publicly traded or regulated by a Governmental Authority at least ninety-five percent (95%) of the assets of which are invested in cash equivalents of the type described in **clauses (a)** through **(c)** above.

"***Permitted Holders***" means John T. Treace.

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

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

"***Permitted PPP Debt***" means the Indebtedness of the Borrower under the Paycheck Protection Program and evidenced by that certain U.S. Small Business Administration Paycheck Protection Program Note dated as of April 22, 2020, executed by the Borrower in favor of Silicon Valley Bank.

"***Permitted Priority Debt***" means Indebtedness of Borrower under (a) one working capital revolving credit facility, in an amount not to exceed at any time the lesser of (x) $10,000,000 and (y) the sum of (1) eighty-five percent (85%) of the face amount at such time of Borrower's eligible

accounts receivable *plus* (2) at all times when a Streamline Period (as defined in the Existing Loan Agreement (as amended on the Initial Funding Date)) is in effect, the lesser of (i) fifty percent (50%) of the value of Borrower's eligible inventory (valued at the lower of cost or wholesale market value) and (ii) Three Million Dollars ($3,000,000.00), and (b) Bank Services (as defined in the Existing Loan Agreement), in an amount not to exceed at any time $2,000,000; *provided*, that (i) such Indebtedness, if secured, is secured solely by the Permitted Priority Debt Collateral, but otherwise is not secured by any property (including any Intellectual Property or proceeds thereof or of Collateral that does not secure such Permitted Priority Debt), (ii) neither Borrower nor any Subsidiary that is not an Obligor shall be an obligor with respect to such Indebtedness or pledge any collateral to secure such Indebtedness and (iii) the holders or lenders thereof have executed and delivered to Administrative Agent an Intercreditor Agreement.

"***Permitted Priority Debt Collateral***" means the "ABL Senior Collateral" as defined in the Intercreditor Agreement.

"***Permitted Priority Liens***" means (a) Liens permitted under **Section 9.02(c)**, **(d)**, **(e)**, **(f)**, **(g)**, **(h)**, **(i)**, **(j)**, **(k)**, **(m)**, **(n)** and **(p)**, and (b) Liens permitted under **Section 9.02(b)**; *provided* that such Liens are also of the type described in **Section 9.02(c)**, **(d)**, **(e)**, **(f)**, **(g)**, **(h)**, **(i)**, **(j)**, **(k)**, **(m)**, **(n)** and **(p)**.

"***Permitted Refinancing***" means, with respect to any Indebtedness, any extensions, renewals, refinancings and replacements of such Indebtedness; *provided*, *that* such extension, renewal, refinancing or replacement (a) shall not increase the outstanding principal amount of such existing Indebtedness (other than by (i) the aggregate amount of any fees and expenses incurred in connection with such extension, renewal, refinancing or replacement and any reasonable premium paid in connection with such extension, renewal, refinancing or replacement and (ii) if such Indebtedness was extended under a committed financing arrangement and any such commitments remain unutilized at the time, the amount of such unutilized commitments, but only to the extent that Indebtedness could be incurred thereunder at the time in compliance with the terms thereof and of this Agreement), (b) contains terms relating to outstanding principal amount, amortization, collateral (if any) and subordination (if any), and other material terms taken as a whole no less favorable in any material respect to Borrower and its Subsidiaries or the Secured Parties than the terms of any agreement or instrument governing such existing Indebtedness, (c) shall have an applicable interest rate which does not exceed the rate of interest of such existing Indebtedness being replaced by more than two percent (2%) per annum, (d) shall not contain any new requirement to grant any lien or security or to give any guarantee that was not an existing requirement of such existing Indebtedness and (e) shall not have a maturity date earlier than that of such existing Indebtedness.

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

"***PIK Loan***" has the meaning set forth in **Section 3.02(d)**.

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

"***Prepayment Premium***" means, if the prepayment occurs:

(a) on or prior to the date that is one (1) year after the applicable Borrowing Date, the Prepayment Premium shall be an amount equal to twenty percent (20%) of the aggregate outstanding principal amount of the Loans (including, for the avoidance of doubt, any PIK Loans) being prepaid on such Redemption Date;

(b) after the date that is one (1) year after the applicable Borrowing Date, and on or prior to the date that is two (2) years after the applicable Borrowing Date, the Prepayment Premium shall be an amount equal to eleven percent (11%) of the aggregate outstanding principal amount of the Loans (including, for the avoidance of doubt, any PIK Loans) being prepaid on such Redemption Date; and

(c) after the date that is two (2) years after the applicable Borrowing Date, the Prepayment Premium shall be an amount equal to zero percent (0%) of the aggregate outstanding principal amount of the Loans (including, for the avoidance of doubt, any PIK Loans) being prepaid on such Redemption Date;

provided, that to determine the aggregate outstanding principal amount of the Loans and the applicable Borrowing Date as of any Redemption Date for purposes of this definition:

(i) if, as of such Redemption Date, Borrower shall have made only one Borrowing (excluding Borrowings of PIK Loans), the Prepayment Premium shall be determined by reference to the Initial Funding Date; and

(ii) if, as of such Redemption Date, Borrower shall have made more than one Borrowing (excluding Borrowings of PIK Loans), then the Prepayment Premium shall equal the sum of multiple Prepayment Premiums calculated with respect to the Loans of each non-PIK Loan Borrowing included in such payment, each of which Prepayment Premiums shall be calculated based solely on the aggregate outstanding principal amount of the Loans borrowed in such Borrowing (and PIK Loans subsequently borrowed in respect of interest payments thereon) and by reference to the applicable Borrowing Date for such Borrowing. In the case of any partial prepayment, the amount of such prepayment shall be allocated to Loans made in the various Borrowings (and PIK Loans in respect thereof) on a *pro rata* basis.

The Prepayment Premium payable upon any prepayment shall be in addition to any payments required pursuant to the Fee Letter (including the Back-End Facility Fee).

"***Procedure***" means medical procedures and related products used for corrective alignment via repositioning of the bone or bones causing a bunion deformity in a subject.

"***Property***" of any Person means any property or assets, or interest therein, of such Person.

"***Proportionate Share***" means, with respect to any Lender, (a) at any time during the Commitment Period, the percentage obtained by dividing (i) the sum of (A) the unused Commitment of such Lender then in effect *plus* (B) the aggregate outstanding principal amount of the Loans of such Lender at such time by (ii) the sum of (A) the unused Commitments of all Lenders then in effect *plus* (B) the aggregate outstanding principal amount of the Loans of all Lenders at such time and (b) at any time thereafter, the percentage obtained by dividing (i) the aggregate outstanding principal amount of the Loans of such Lender at such time by (ii) the aggregate outstanding principal amount of the Loans of all Lenders at such time.

"***Qualified Equity Interests***" means, with respect to any Person, any Equity Interests of such Person that are not Disqualified Equity Interests.

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

"***Qualifying IPO***" means the issuance by Borrower of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act of 1933 which results in gross proceeds to Borrower of at least $50,000,000, at a post-money valuation of at least $200,000,000, and such Equity Interests being listed on a nationally-recognized stock exchange in the United States.

"***Real Property Security Documents***" means the Landlord Consent and any mortgage or deed of trust or any other real property security document executed or required hereunder to be executed by any Obligor and granting a security interest in real property owned or leased (as tenant) by any Obligor in favor of the Administrative Agent, for the benefit of the Secured Parties.

"***Recipient***" means Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any Obligation.

"***Redemption Date***" means, as the context may require, (a) the Payment Date on which an optional prepayment is made pursuant to **Section 3.03(a)**, (b) the date of an Asset Sale, Involuntary Disposition or Change of Control in connection with which a prepayment is made, or required to be made, pursuant to **Section 3.03(b)** and (c) in the event that Loans become due and payable prior to the Stated Maturity Date for any reason not related to the foregoing **clauses (a)** through **(b)** (other than by reason of the Loans becoming due and payable pursuant to an Acceleration or if mandated by a Requirement of Law as described in **Section 5.02**), the date on which a prepayment is due.

"***Redemption Price***" means an amount equal to the aggregate principal amount of the Loans being prepaid *plus* the Prepayment Premium *plus* any accrued but unpaid interest and any fees then due and owing pursuant to the Loan Documents (including the Back-End Facility Fee).

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

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

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

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

"***Regulatory Approvals***" means any registrations, licenses, authorizations, permits or approvals issued by any Governmental Authority and applications or submissions related to any of the foregoing.

"***Related Person***" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, sub-advisors and representatives of such Person and of such Person's Affiliates.

"***Requirement of Law***" means, as to any Person, any statute, law, treaty, rule or regulation or determination, order, injunction or judgment of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its Properties or revenues.

"***Responsible Officer***" of any Person means each of the president, chief executive officer and chief financial officer of such Person.

"***Restricted Payment***" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Borrower or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests of Borrower or any of its Subsidiaries or any option, warrant or other right to acquire any such Equity Interests of Borrower or any of its Subsidiaries.

"***Restrictive Agreement***" means an indenture, agreement, instrument or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of Borrower or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets in favor of the Administrative Agent, for the benefit of the Secured Parties, pursuant to the Loan Documents or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to its Equity Interests or to make or repay loans or advances to Borrower or any other Subsidiary or to Guarantee Indebtedness of Borrower or any other Subsidiary.

"***Revenue***" means, for any period, for Borrower and its Subsidiaries on a consolidated basis, net revenue for such period properly recognized under GAAP, consistently applied, *less* (a) all rebates, refunds, discounts and other price allowances and (b) upfront payments, milestones and other similar one-time payments received by Borrower or any Subsidiary, in each case, that are not related to the sale of products or services (including, for the avoidance of doubt, procedures).

"***Sanctioned Jurisdiction***" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"***Sanctioned Person***" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Jurisdiction or (c) any Person owned or Controlled by any such person or Persons described in **clauses (a)** and **(b)**.

"***Sanctions***" means any international economic sanction administered or enforced by the United States Government (including OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"***Second PIK Period***" means the period beginning on day immediately following the second (2nd) Payment Date through and including the earlier to occur of (a) the nineteenth (19th) Payment Date and (b) at the written election of the Majority Lenders, any date after the day immediately following the second (2nd) Payment Date on which any Event of Default shall have occurred (*provided*, that if such Event of Default shall have been cured or waived, the Second PIK Period shall resume until the earlier to occur of the next Event of Default (subject to the election of the Majority Lenders) and the nineteenth (19th) Payment Date).

"***Secured Parties***" means the Lenders, Administrative Agent, each other Indemnified Party, each other holder of any Obligation and each co-agent and sub-agent appointed by the Administrative Agent from time to time pursuant to **Section 12.04**.

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

"***Security Agreement***" means the Security Agreement, dated as of the Closing Date, among the Obligors and Administrative Agent, granting a security interest in the Obligors' personal Property in favor of the Administrative Agent, for the benefit of the Secured Parties.

"***Security Documents***" means, collectively, the Security Agreement, each Short-Form IP Security Agreement, each Real Property Security Document, and each other security document, control agreement or financing statement required or recommended to perfect Liens in favor of the Secured Parties.

"***Short-Form IP Security Agreements***" means short-form copyright, patent or trademark (as the case may be) security agreements, entered into by one or more Obligors in favor of Administrative Agent, for the benefit of the Secured Parties, each in form and substance reasonably satisfactory to Administrative Agent (and as amended, modified or replaced from time to time).

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

"***Stated Maturity Date***" means the twentieth (20th) Payment Date.

"***Subsidiary***" means, with respect to any Person (the "***parent***") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent or (b) that is, as of such date, otherwise Controlled by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. Unless the context requires otherwise, "Subsidiary" refers to a Subsidiary of Borrower.

"***Subsidiary Guarantors***" means each of the Subsidiaries identified under the caption "SUBSIDIARY GUARANTORS" on the signature pages hereto and each Subsidiary that becomes, or is required to become, a "Subsidiary Guarantor" after the Closing Date pursuant to **Section 8.12(a)** or **(b)**.

"***Substitute Lender***" has the meaning set forth in **Section 2.06(a)**.

"***Tax Affiliate***" means (a) Borrower and its Subsidiaries, (b) each other Obligor and (c) any Affiliate of an Obligor with which such Obligor files or is eligible to file consolidated, combined or unitary Tax returns.

"***Tax Returns***" has the meaning set forth in **Section 7.08**.

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

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

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

"***Total Credit Exposure***" means, as to any Lender at any time, the unused Commitments of such Lender at such time and the aggregate outstanding principal amount of all Loans of such Lender at such time.

"***Trademarks***" is defined in the Security Agreement.

"***Transactions***" means (a) the execution, delivery and performance by each Obligor of this Agreement and the other Loan Documents to which such Obligor is a party and the Borrowings contemplated hereby, (b) the repayment in full of all existing Indebtedness (other than contingent indemnification obligations for which no claim has been submitted) of Borrower and its Subsidiaries under the Existing Loan Agreement and the termination of all Liens with respect thereto (other than Liens permitted under **Section 9.02(c)**) and commitments thereunder (except for commitments in respect of Permitted Priority Debt permitted under **Section 9.01(c)**), in each case, on the Initial Funding Date and (c) the payment of related fees, costs and expenses in connection with the matters described in **clauses (a)** and **(b)**.

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

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

"***United States***" and "***U.S.***" mean the United States of America.

"***VCOC Lender***" means CRG PARTNERS IV L.P. and each other Lender that is intended to qualify as a "venture capital operating company" for purposes of ERISA and that is assigned any of the Loans. Notwithstanding the foregoing, it is understood and agreed that if CRG PARTNERS IV – CAYMAN LEVERED L.P. becomes a Lender after the Closing Date, it will automatically be deemed a VCOC Lender.

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

"***Withholding Agent***" means any Obligor and Administrative Agent.

1.02 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. All components of financial calculations made to determine compliance with this Agreement, including **Section 10**, shall be adjusted to include or exclude, as the case may be, without duplication, such components of such calculations attributable to any Acquisition, Asset Sale or Involuntary Disposition, in each case, consummated after the first day of the applicable period of determination and prior to the end of such period, as determined in good faith by Borrower based on assumptions expressed therein and that were reasonable based on the information available to Borrower at the time of preparation of the Compliance Certificate setting forth such calculations.

1.03 Interpretation.

(a) For all purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires, (i) the terms defined in this Agreement include the plural as well as the singular and vice versa; (ii) words importing gender include all genders; (iii) any reference to a Section, Annex, Schedule or Exhibit refers to a Section of, or Annex, Schedule or Exhibit to, this Agreement; (iv) any reference to "this Agreement" refers to this Agreement, including all Annexes, Schedules and Exhibits hereto, and the words herein, hereof, hereto and hereunder and words of similar import refer to this Agreement and its Annexes, Schedules and Exhibits as a whole and not to any particular Section, Annex, Schedule, Exhibit or any other subdivision; (v) references to days, months and years refer to calendar days, months and years, respectively; (vi) all references herein to "include" or "including" shall be deemed to be followed by the words "without limitation"; (vii) the word "from" when used in connection with a period of time means "from and including" and the word "until" means "to but not including"; (viii) accounting terms not specifically defined herein shall be construed in accordance with GAAP (except for the term "property," which shall be interpreted as broadly as possible, including, in any case, cash, securities, other assets, rights under contractual obligations and permits and any right or interest in any property, except where otherwise noted) and (ix) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any reference to any law, rule or regulation shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified, extended, restated, replaced or supplemented from time to time. Unless otherwise expressly provided herein, references to organizational documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all permitted subsequent amendments, restatements, extensions, supplements and other modifications thereto.

(b) Notwithstanding any other provision contained in this Agreement, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to (i) other than with respect to the preparation of financial statements in accordance with GAAP (it being understood that, if requested by Administrative Agent or any Lender, Borrower shall provide to Administrative Agent and the Lenders financial statements and other documents setting forth a reconciliation between the applicable calculations, amounts and definitions set forth herein both with and without giving effect to such change), any change to GAAP occurring after December 31, 2017 as a result of ASU 2016-02, Leases (Topic 842) by the Financial Accounting Standards Board or any other proposals issued by the Financial Accounting Standards Board in connection therewith, in each case if such change would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) was not required to be so treated under GAAP as in effect on December 31, 2017, (ii) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Borrower or any Subsidiary at "fair value," as defined therein and (iii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

1.04 Changes to GAAP. If, after the Closing Date, any change occurs in GAAP or in the application thereof and such change would cause any amount required to be determined for the purposes of the covenants to be maintained or calculated pursuant to **Section 8**, **9** or **10** to be materially different than the amount that would be determined prior to such change, then:

(a) Borrower will provide a detailed notice of such change (an "***Accounting Change Notice***") to Administrative Agent within thirty (30) days of adoption by Borrower or any of its Subsidiaries of such change;

(b) either Borrower or the Majority Lenders may indicate within ninety (90) days following the date of the Accounting Change Notice that they wish to revise the method of calculating such financial covenants, amend any such amount or amend any financial covenant definition in connection therewith, in each case, to ensure alignment with the change set forth in the Accounting Change Notice, then the parties will in good faith attempt to agree upon a revised method for calculating the financial covenants or an amendment to such amount or financial definition, as the case may be;

(c) until Borrower and the Majority Lenders have reached agreement on such revisions, (i) such financial covenants, amounts or definitions will be determined without giving effect to such change and (ii) all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations, amounts and definitions set forth therein before and after giving effect to such change in GAAP;

(d) if no party elects to revise the method of calculating the financial covenants, amounts or definitions, then the financial covenants, amounts or definitions will not be revised and will be determined in accordance with GAAP without giving effect to such change; and

(e) any Event of Default arising as a result of such change which is cured by operation of this **Section 1.04** shall be deemed to be of no effect ab initio.

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

SECTION 2
THE COMMITMENT

2.01 Commitments. Each Lender agrees severally, on and subject to the terms and conditions of this Agreement (including **Section 6**), to make up to three term loans (*provided*, that PIK Loans shall be deemed not to constitute **"**term loans**"** for purposes of this **Section 2.01**) to Borrower, in each case on a Business Day during the Commitment Period in Dollars and in an aggregate principal amount for such Lender not to exceed such Lender's then unfunded Commitment; *provided*, *however*, that no Lender shall be obligated to make a term loan in excess of such Lender's Proportionate Share of the applicable Borrowing. Amounts of Loans repaid may not be reborrowed.

2.02 Borrowing Procedures. Subject to the terms and conditions of this Agreement (including **Section 6**), each Borrowing (other than a Borrowing of PIK Loans) shall be made on written notice in the form of **Exhibit B** given by Borrower to Administrative Agent not later than 11:00 a.m. (Central time) on the Borrowing Notice Date (a ***"Notice of Borrowing"***).

2.03 Fees. Borrower shall pay to Administrative Agent and/or the Lenders, as applicable, such fees as described in the Fee Letter.

2.04 Use of Proceeds. Borrower shall use the proceeds of the Loans for repayment of all outstanding Indebtedness and other obligations under the Existing Loan Agreement (other than Indebtedness and other obligations which are permitted to remain outstanding pursuant to **Section 9.01(c)**), general working capital and corporate purposes and to pay fees, costs and expenses incurred in connection with the Transactions; *provided*, that the Lenders shall have no responsibility as to the use of any proceeds of Loans.

2.05 Defaulting Lenders.

(a) **Adjustments**. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) **Waivers and Amendments**. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in **Section 13.04**.

(ii) **Reallocation of Payments**. Any payment of principal, interest, fees or other amounts received by the Lenders or Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to **Section 11** or otherwise), shall be applied at such time or times as follows: first, as Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement; second, if so determined by the Majority Lenders and Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of such Defaulting Lender to fund Loans under this Agreement; third, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fourth, so long as no Default exists, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and fifth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided*, that if (A) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share and (B) such Loans were made at a time when the conditions set forth in **Section 6** were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any

Loans of such Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this **Section 2.05(a)(ii)** shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(b) **Defaulting Lender Cure**. If Borrower and the Majority Lenders agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as necessary to cause the Loans to be held on a *pro rata* basis by the Lenders in accordance with their Proportionate Share, whereupon that Lender will cease to be a Defaulting Lender; *provided*, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Borrower while that Lender was a Defaulting Lender; and *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

2.06 Substitution of Lenders.

(a) **Substitution Right**. If any Lender (an "***Affected Lender***"), (i) becomes a Defaulting Lender or (ii) does not consent to any amendment, waiver or consent to any Loan Document for which the consent of the Majority Lenders is obtained but that requires the consent of other Lenders (a "***Non-Consenting Lender***"), then (x) Borrower may elect to pay in full such Affected Lender with respect to all Obligations due to such Affected Lender or (y) either Borrower or Administrative Agent shall identify any willing Lender, Affiliate of a Lender or Eligible Transferee (in each case, a "***Substitute Lender***") to substitute for such Affected Lender; *provided*, that any substitution of a Non-Consenting Lender shall occur only with the consent of Administrative Agent and must not conflict with applicable Laws.

(b) **Procedure**. To substitute such Affected Lender or pay in full all Obligations owed to such Affected Lender, Borrower shall deliver a notice to such Affected Lender. The effectiveness of such payment or substitution shall be subject to the delivery by Borrower (or, as may be applicable in the case of a substitution, by the Substitute Lender) of (i) payment for the account of such Affected Lender, of, to the extent accrued through, and outstanding on, the effective date for such payment or substitution, all Obligations owing to such Affected Lender (which, notwithstanding anything to the contrary, shall not include any Prepayment Premium, Back-End Facility Fee, Acceleration Premium or similar premium) and (ii) in the case of a substitution, an Assignment and Assumption executed by the Substitute Lender, which shall thereunder, among other things, agree to be bound by the terms of the Loan Documents.

(c) **Effectiveness**. Upon satisfaction of the conditions set forth in **Sections 2.06(a)** and **(b)**, Administrative Agent shall record such substitution or payment in the Register, whereupon (i) in the case of any payment in full of an Affected Lender, such Affected Lender's Commitments shall be terminated and (ii) in the case of any substitution of an Affected Lender, (A) such Affected Lender shall sell and be relieved of, and the Substitute Lender shall purchase and assume, all rights and claims of such Affected Lender under the Loan Documents, except that the Affected Lender shall retain such rights under the Loan Documents that expressly provide that

they survive the repayment of the Obligations and the termination of the Commitments, (B) such Affected Lender shall no longer constitute a "Lender" hereunder and such Substitute Lender shall become a "Lender" hereunder and (C) such Affected Lender shall execute and deliver an Assignment and Assumption to evidence such substitution; *provided*, *however*, that the failure of any Affected Lender to execute any such Assignment and Assumption shall not render such sale and purchase (or the corresponding assignment) invalid.

2.07 Termination or Reduction of Commitments.

(a) **Voluntary**. Borrower may, upon notice to Administrative Agent during the Commitment Period, on any Payment Date, terminate in part or in full the then unfunded Commitments; *provided*, that any such notice shall be received by Administrative Agent not later than 11:00 a.m. (Central time) five (5) Business Days prior to the date of termination. Upon any partial termination of the Commitments, the Commitments of each Lender shall be reduced by such Lender's Proportionate Share of such reduction amount.

(b) **Mandatory**. The Commitments shall be automatically and permanently reduced (i) on the Initial Funding Date, by the amount of the Borrowing made on such date, (ii) on the earlier to occur of (A) the Borrowing Date for a Borrowing made in accordance with **Section 6.02(b)** and (B) July 1, 2021, by $10,000,000 and (iii) on the earlier to occur of (A) the Borrowing Date for a Borrowing made in accordance with **Section 6.02(c)** and (B) December 31, 2021, by $10,000,000. Additionally, the Commitments shall be automatically and permanently reduced to zero on the date that the Commitment Period shall end. Upon any reduction of the Commitments, the Commitments of each Lender shall be reduced by such Lender's Proportionate Share of such reduction amount.

SECTION 3
PAYMENTS OF PRINCIPAL AND INTEREST

3.01 Repayment.

(a) **Repayment**. During the Interest-Only Period, no scheduled payments of principal of the Loans shall be due. Borrower agrees to repay to the Lenders the outstanding principal amount of the Loans (including, for the avoidance of doubt, PIK Loans), together with all other outstanding Obligations, shall be due and payable on the Maturity Date.

(b) **Application**. Any optional or mandatory prepayment of the Loans shall be applied to the Loans on a *pro rata* basis.

(c) **Maturity Date**. To the extent not previously paid, the principal amount of the Loans (including, for the avoidance of doubt, PIK Loans), together with all other outstanding Obligations, shall be due and payable on the Maturity Date.

3.02 Interest.

(a) **Interest Generally**. Subject to **Section 3.02(d)**, Borrower agrees to pay to the Lenders interest on the unpaid principal amount of the Loans (including, for the avoidance of doubt, PIK Loans) and the amount of all other outstanding monetary Obligations, in the case of

the Loans, for the period from the applicable Borrowing Date and, in the case of any other monetary Obligation, from the date such other monetary Obligation is due and payable, in each case, to and including the date on which such Loan or monetary Obligation is paid in full, at a rate *per annum* equal to thirteen percent (13%).

(b) **Default Interest**. Notwithstanding the foregoing, (i) automatically upon the occurrence and during the continuance of any Event of Default under **Section 11.01(a)**, **(h)**, **(i)** or **(j)**, and (ii) after written notice from Administrative Agent to Borrower upon the occurrence and during the continuance of any other Event of Default not covered by the foregoing **clause (i)**, in each case, the interest payable pursuant to **Section 3.02(a)** shall increase automatically by four percent (4.00%) *per annum* (such aggregate increased rate, the "***Default Rate***"). Notwithstanding any other provision herein (including **Section 3.02(d)**), if interest is required to be paid at the Default Rate, it shall be paid entirely in cash.

(c) **Interest Payment Dates**. Subject to **Section 3.02(d)**, accrued interest on the Loans shall be payable in arrears on each Payment Date with respect to the most recently completed Interest Period in cash, and upon the payment or prepayment of the Loans (on the principal amount being so paid or prepaid); *provided*, that interest payable at the Default Rate shall be payable from time to time on demand.

(d) **Paid In-Kind Interest**.

(i) **First PIK Period**. Notwithstanding **Section 3.02(a)**, at any time during the First PIK Period, Borrower may elect to pay interest on the outstanding principal amount of the Loans entirely as compounded interest, added to the aggregate principal amount of the Loans for all purposes under this Agreement (the amount of any such compounded interest being a "***PIK Loan***"), including, without limitation, for purposes of calculating any Prepayment Premium or Acceleration Premium. The principal amount of each PIK Loan under this **Section 3.02(d)(i)** shall accrue interest in accordance with the provisions of this Agreement applicable to the Loans. For purposes of clarification, Borrower may only elect to pay interest as provided in this **Section 3.02(d)(i)** for Interest Periods that are entirely within the First PIK Period (such that interest for the entirety of any Interest Period in which an Event of Default occurred or is continuing for which the Majority Lenders elected to end the First PIK Period must be paid in cash in accordance with **Section 3.02(a)** unless the Majority Lenders shall specify otherwise at the time of waiving such Event of Default).

(ii) **Second PIK Period**. Notwithstanding **Section 3.02(a)**, at any time during the Second PIK Period, Borrower may elect to pay interest on the outstanding principal amount of the Loans as follows: (A) seven and one-half percent (7.50%) *per annum* interest payable in cash and (B) five and one-half percent (5.50%) *per annum* interest payable as compounded interest as compounded interest, added to the aggregate principal amount of the Loans for all purposes under this Agreement (the amount of any such compounded interest being a PIK Loan), including, without limitation, for purposes of calculating any Prepayment Premium or Acceleration Premium. The principal amount of each PIK Loan under this **Section 3.02(d)(ii)** shall accrue interest in accordance with the provisions of this Agreement applicable to the Loans. For purposes of clarification, Borrower may only elect to pay interest as provided in this **Section 3.02(d)(ii)** for Interest Periods that are entirely within the Second PIK Period (such that interest for the entirety of any Interest Period in which an Event of Default occurred or is continuing for which the Majority Lenders elected to end the Second PIK Period must be paid in cash in accordance with **Section 3.02(a)** unless the Majority Lenders shall specify otherwise at the time of waiving such Event of Default).

(e) **Redemption Price**. For the avoidance of doubt, in the event any Loans shall become due and payable for any reason, interest pursuant to **Sections 3.02(a)** and **(b)** shall accrue on the Redemption Price for such Loans from and after the date such Redemption Price is due and payable until paid in full.

3.03 Prepayments.

(a) **Optional Prepayments**. Upon prior written notice to Administrative Agent delivered pursuant to **Section 4.03**, Borrower shall have the right to optionally prepay in whole or in part the outstanding principal amount of the Loans on any Payment Date for the Redemption Price. No partial prepayment shall be made under this **Section 3.03(a)** in connection with any event described in **Section 3.03(b)**.

(b) **Mandatory Prepayments**.

(i) **Asset Sales**. In the event of any contemplated Asset Sale or Involuntary Disposition, as applicable, or series of related Asset Sales (other than any Asset Sale permitted under **Section 9.09(a)**, **(b)**, **(c)**, **(d)** or **(f)**) or Involuntary Dispositions, as applicable, yielding Asset Sale Net Proceeds in excess of $2,000,000 in the aggregate for all such Asset Sales, Involuntary Dispositions or series thereof (such $2,000,000 aggregate amount, the "***Non-Prepayment Basket***"), Borrower shall provide at least ten (10) days' prior written notice of such Asset Sale, Involuntary Disposition or series thereof, as applicable, to Administrative Agent and shall, not later than the date that is three (3) Business Days after the date of such Asset Sale, Involuntary Disposition or series thereof, as applicable: (x) if the assets subject to such Asset Sale, Involuntary Disposition or series thereof represent substantially all of the assets or Revenues of Borrower and its Subsidiaries, on a consolidated basis, or represent any specific line of business which either on its own or together with other lines of business sold or otherwise disposed of over the term of this Agreement account for Revenue generated by such lines of business exceeding fifteen percent (15%) of the Revenue of Borrower and its Subsidiaries, on a consolidated basis, in the immediately preceding year, prepay the aggregate outstanding principal amount of the Loans in an amount equal to the Redemption Price applicable on the date of such Asset Sale, Involuntary Disposition or series thereof, and (y) in the case of all other Asset Sales, Involuntary Dispositions and series thereof not described in the foregoing **clause (x)** (and subject, for the avoidance of doubt, to the prior utilization of the Non-Prepayment Basket), prepay the Loans in an amount equal to the entire amount of the Asset Sale Net Proceeds of such Asset Sale, Involuntary Disposition or series thereof, *plus* any accrued but unpaid interest and any fees (including the Back-End Facility Fee) then due and owing with respect to the principal amount of the Loans being prepaid *plus* the Prepayment Premium with respect to the Loans being prepaid, credited in the following order:

(A) first, in reduction of Borrower's obligation to pay any unpaid interest and any fees (including the Back-End Facility Fee) then due and owing and any Prepayment Premiums;

(B) second, in reduction of Borrower's obligation to pay any Claims or Losses referred to in **Section 13.03** then due and owing;

(C) third, in reduction of Borrower's obligation to pay any amounts due and owing on account of the unpaid principal amount of the Loans;

(D) fourth, in reduction of any other Obligation then due and owing; and

(E) fifth, to Borrower or such other Persons as may lawfully be entitled to or directed by Borrower to receive the remainder.

(ii) **Change of Control**. In the event of a Change of Control, Borrower shall immediately provide notice of such Change of Control to Administrative Agent and, if within ten (10) days of receipt of such notice, the Majority Lenders or Administrative Agent advise Borrower that the Majority Lenders require a prepayment pursuant to this **Section 3.03(b)(ii)**, Borrower shall prepay the aggregate outstanding principal amount of the Loans in an amount equal to the Redemption Price applicable on the date of such Change of Control (including, without limitation, any Prepayment Premium with respect to the Loans being prepaid) and pay any fees payable (including the Back-End Facility Fee).

(c) **Prepayment Premiums**. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if all or any portion of the Loans are prepaid, or required to be prepaid, pursuant to this **Section 3**, then, in all cases, Borrower shall pay to the Lenders, for their respective ratable accounts, on the date on which such prepayment is paid or required to be paid, in addition to (but without duplication of) the other Obligations so prepaid or required to be prepaid, the applicable Prepayment Premium.

SECTION 4
PAYMENTS, ETC.

4.01 Payments.

(a) **Payments Generally**. Each payment of principal, interest and other amounts to be made by the Obligors under this Agreement or any other Loan Document shall be made in Dollars, in immediately available funds, without deduction, set off or counterclaim, to an account to be designated by Administrative Agent by notice to Borrower, not later than 4:00 p.m. (Central time) on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day).

(b) **Application of Payments**. To the extent the order of application is not otherwise specified by another provision hereof, each Obligor shall, at the time of making each payment under this Agreement or any other Loan Document, specify to Administrative Agent the amounts payable by such Obligor hereunder to which such payment is to be applied (and in the event that Obligors fail to so specify, or if an Event of Default has occurred and is continuing, the Lenders may apply such payment in the manner they determine to be appropriate).

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

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

4.03 Notices. Each notice of optional prepayment shall be effective only if received by Administrative Agent not later than 4:00 p.m. (Central time) on the date five (5) Business Days (or such shorter period as may be agreed to in Administrative Agent's sole discretion) prior to the date of prepayment. Each notice of optional prepayment shall specify the amount to be prepaid and the date of prepayment and may be conditioned upon the consummation of other transactions.

4.04 Set-Off.

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

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

4.05 Pro Rata Treatment.

(a) Unless Administrative Agent shall have been notified in writing by any Lender prior to the proposed date of any Borrowing that such Lender will not make the amount that would constitute its share of such Borrowing available to Administrative Agent, Administrative Agent may assume that such Lender has made such amount available to Administrative Agent on such date in accordance with **Section 2**, and Administrative Agent may, in reliance upon such assumption, make available to Borrower a corresponding amount. If such amount is not in fact made available to Administrative Agent by the required time on the applicable Borrowing Date therefor, such Lender and Borrower severally agree to pay to Administrative Agent forthwith, on demand, such corresponding amount with interest thereon, for each day from and including the date on which such amount is made available to Borrower but excluding the date of payment to

Administrative Agent, at a rate equal to the greater of (i) the Federal Funds Effective Rate and (ii) a rate reasonably determined by Administrative Agent in accordance with banking industry rules on interbank compensation. If Borrower and such Lender shall pay such interest to Administrative Agent for the same or an overlapping period, Administrative Agent shall promptly remit to Borrower the amount of such interest paid by Borrower for such period. If such Lender pays its share of the applicable borrowing to Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such borrowing. Any payment by Borrower shall be without prejudice to any claim Borrower may have against a Lender that shall have failed to make such payment to Administrative Agent.

(b) Unless Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due to Administrative Agent for the account of the Lenders hereunder that Borrower will not make such payment, Administrative Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to Administrative Agent forthwith on demand the amount so distributed to such Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation. Nothing herein shall be deemed to limit the rights of Administrative Agent or any Lender against any Obligor.

(c) If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the principal of or interest on any Loan or Prepayment Premium in connection therewith made by it or other obligations hereunder, as applicable (other than pursuant to a provision hereof providing for *non-pro rata* treatment), in excess of its Proportionate Share, of such payment on account of the Loans, such Lender shall (i) notify Administrative Agent of the receipt of such payment, and (ii) within five (5) Business Days of such receipt purchase (for cash at face value) from the other Lenders, as applicable (directly or through Administrative Agent), without recourse, such participations in the Loans made by them or make such other adjustments as shall be equitable, as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of the other Lenders in accordance with their respective Proportionate Shares, as applicable; *provided*, *however*, that (A) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest and (B) the provisions of this paragraph shall not be construed to apply to (x) any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment or sale of a participation in any of its Loans to any assignee or participant, other than to Borrower or any of its Affiliates (as to which the provisions of this paragraph shall apply). Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this **Section 4.05(c)** may exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of Borrower in the amount of such participation. No documentation other than notices and the like referred to in this **Section 4.05(c)** shall be required to implement the terms of this **Section 4.05(c)**. Administrative Agent shall keep records

(which shall be conclusive and binding in the absence of manifest error) of participations purchased pursuant to this **Section 4.05(c)** and shall in each case notify the Lenders following any such purchase. Borrower consents on behalf of itself and each other Obligor to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Obligor rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of each Obligor in the amount of such participation.

SECTION 5
YIELD PROTECTION, ETC.

5.01 Additional Costs.

(a) **Change in Requirements of Law Generally**. If, on or after the Closing Date, the adoption of any Requirement of Law, or any change in any Requirement of Law, or any change in the interpretation or administration thereof by any court or other Governmental Authority charged with the interpretation or administration thereof, or compliance by any of the Lenders (or its lending office) with any request or directive (whether or not having the force of law) of any such Governmental Authority, shall impose, modify or deem applicable any reserve (including any such requirement imposed by the Board of Governors of the Federal Reserve System), special deposit, contribution, insurance assessment or similar requirement, in each case that becomes effective after the Closing Date, against assets of, deposits with or for the account of, or credit extended by, a Lender (or its lending office) or shall impose on a Lender (or its lending office) any other condition affecting its Loans or its Commitment, and the result of any of the foregoing is to increase the cost to such Lender of making or maintaining its Loans, or to reduce the amount of any sum received or receivable by such Lender under this Agreement or any other Loan Document, by an amount deemed by such Lender to be material (other than (i) Indemnified Taxes, (ii) Taxes described in **clauses (b)** through **(d)** of the definition of "Excluded Taxes" and (iii) Connection Income Taxes), then Borrower shall pay to such Lender on demand such additional amount or amounts as will compensate such Lender for such increased cost or reduction.

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

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

(d) Notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to constitute a change in Requirements of Law for all purposes of this **Section 5.01**, regardless of the date enacted, adopted or issued.

5.02 Illegality. Notwithstanding any other provision of this Agreement, in the event that on or after the Closing Date the adoption of or any change in any Requirement of Law or in the interpretation or application thereof by any competent Governmental Authority shall make it unlawful for a Lender or its lending office to make or maintain the Loans (and, in the opinion of such Lender, the designation of a different lending office would either not avoid such unlawfulness or would be disadvantageous to such Lender), then such Lender shall promptly notify Borrower thereof following which (a) the Lender's Commitment shall be suspended until such time as such Lender may again make and maintain its Loans hereunder and (b) if such Requirement of Law shall so mandate, the Loans of such Lender shall be prepaid by Borrower on or before such date as shall be mandated by such Requirement of Law in an amount equal to the aggregate principal amount of such Loans *plus* all accrued but unpaid interest and any fees then due and owing (including the Back-End Facility Fee and excluding, for the avoidance of doubt, any Prepayment Premium or Acceleration Premium) on the date of such prepayment.

5.03 Taxes.

(a) **Payments Free of Taxes**. Any and all payments by or on account of any Obligation shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment by 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 Obligor shall be increased as necessary so that after such deduction or withholding for Indemnified Taxes has been made (including such deductions and withholdings for Indemnified Taxes applicable to additional sums payable under this **Section 5.03**) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding for Indemnified Taxes been made.

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

(c) **Evidence of Payments**. As soon as practicable after any payment of Taxes by any Obligor to a Governmental Authority pursuant to this **Section 5.03**, such Obligor shall deliver to 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.

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

(e) **Status of Lenders**.

(i) Any Lender that is entitled to an exemption from, or reduction of withholding Tax with respect to payments made under any Loan Document shall make available to Borrower (directly or through Administrative Agent) such properly completed and executed documentation reasonably requested by Borrower or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding; *provided*, that other than in the case of U.S. Federal withholding Taxes, such Lender has received written notice from Borrower advising it of the availability of such exemption or reduction and containing all applicable documentation. In addition, any Lender shall make available (directly or through Administrative Agent) such other documentation prescribed by applicable law as reasonably requested by Borrower or Administrative Agent as will enable Borrower or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in **Section 5.03(e)(ii)(A)**, **(B)** or **(D)**) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

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

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

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

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

(2) executed originals of IRS Form W-8ECI (or successor form);

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of **Exhibit C-1** 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 Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "***U.S. Tax Compliance Certificate***") and (y) executed originals of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or successor form); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY (or successor form), accompanied by IRS Form W-8ECI (or successor form), IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or successor form), a U.S. Tax Compliance Certificate substantially in the form of **Exhibit C-2** or **Exhibit C-3**, IRS Form W-9 (or successor form), and/or other certification documents from each beneficial owner, as applicable; *provided*, that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of **Exhibit C-4** on behalf of each such direct and indirect partner.

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

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall make available to Borrower (directly or through Administrative Agent) at the time or times prescribed by law as reasonably requested by Borrower or Administrative Agent any necessary forms and information reasonably requested by Borrower or Administrative Agent to establish that such Lender is not subject to withholding tax under FATCA. Solely for purposes of this **clause (D)**, "FATCA" shall include any amendments made to FATCA after the date hereof.

(iii) Each Lender agrees that if any form or certification it previously made available becomes inaccurate in any respect, or if Borrower notifies such Lender that any form or certification such Lender previously made available has expired or becomes obsolete in any respect, such Lender shall update such form or certification or promptly notify Borrower in writing of its legal inability to do so.

(f) **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 5** (including by the payment of additional amounts pursuant to this **Section 5**), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this **Section 5** 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 (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this **Section 5.03(f)**, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this **Section 5.03(f)** 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 indemnification payments or additional amounts giving rise to such refund had never been paid. This **Section 5.03(f)** 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.

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

SECTION 6
CONDITIONS PRECEDENT

6.01 Conditions to Closing Date. This Agreement shall not become effective until the following conditions precedent shall have been satisfied or waived in writing by the Lenders:

(a) [**Reserved**]

(b) [**Reserved**]

(c) **Terms of Material Agreements, Etc**. Lenders shall be reasonably satisfied with the terms and conditions of all Material Agreements.

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

(e) **Payment of Fees**. The Lenders shall be satisfied with the arrangements to deduct the fees set forth in the Fee Letter that are payable as of the Initial Funding Date (including the financing fee required pursuant to the Fee Letter) from the proceeds advanced.

(f) **Lien Searches**. The Lenders shall be satisfied with Lien searches regarding Borrower and its Subsidiaries made prior to such Borrowing.

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

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

(ii) **Security Documents**.

(A) The Security Agreement, duly executed and delivered by each of the Obligors.

(B) Each of the Short-Form IP Security Agreements, duly executed and delivered by the applicable Obligor.

(C) With respect to all Equity Interests owned by the Obligors required to be pledged under the Loan Documents, (1) to the extent that such Equity Interests are certificated or required to be certificated pursuant to the applicable issuer's organizational documents, original share certificates or other documents or evidence of title, together with share transfer documents, undated and executed in blank and (2) to the extent that such Equity Interests are uncertificated and permitted to be uncertificated pursuant to the applicable issuer's organizational documents, an issuer's acknowledgment in form and substance reasonably satisfactory to Administrative Agent.

(D) [intentionally deleted].

(E) UCC-1 financing statements in proper form for filing against each Obligor in its jurisdiction of formation or incorporation, as the case may be.

(F) Evidence of filing of each of the Short-Form IP Security Agreements in the United States Patent and Trademark Office or the United States Copyright office, as applicable.

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

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

(iv) **Perfection Certificate**. The Perfection Certificate duly executed and delivered by the Obligors.

(v) **Approvals**. Certified copies of all material licenses, consents, authorizations and approvals of, and notices to and filings and registrations with, any Governmental Authority (including all foreign exchange approvals), and of all third-party consents and approvals, necessary in connection with the execution, delivery and performance by the Obligors of the Loan Documents and the Transactions.

(vi) **Corporate Documents**. Certified copies of (A) the constitutive documents of each Obligor, (B) resolutions of the Board (or shareholders, if applicable) of each Obligor authorizing the making and performance by it of the Loan Documents to which it is a party and (C) good standing certificates (or their equivalent) of each Obligor dated as of a recent date.

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

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

(ix) [Reserved]

(x) **Insurance**. Certificates of insurance evidencing the existence of all insurance required to be maintained by the Obligors and their respective Subsidiaries pursuant to **Section 8.05** and the designation of Administrative Agent as the lender's loss payee or additional named insured, as the case may be, thereunder.

(xi) **Management Rights Letter**. The Management Rights Letter, duly executed and delivered by Borrower.

(xii) **Payoff Letter**. A duly executed and delivered payoff letter with respect to the Existing Loan Agreement, together with such related Lien releases as are reasonably requested by the Administrative Agent, in each case in form and substance reasonably satisfactory to Administrative Agent.

(xiii) **Other Liens**. Duly executed and delivered copies of such acknowledgment letters as are reasonably requested by Administrative Agent with respect to existing Liens.

6.02 Conditions to Borrowings. The obligation of each Lender to make a Loan (except in the case of a PIK Loan) as part of a Borrowing after the Closing Date is subject to the following conditions precedent, which shall have been satisfied or waived in writing by the Lenders:

(a) **Initial Funding Date Borrowing**. The Borrowing on the Initial Funding Date shall be subject to the following conditions precedent:

(i) **Borrowing Date and Amount**. Such Borrowing shall occur on the Initial Funding Date in an amount equal to $30,000,000.00.

(ii) **Opinions of Counsel**. The Lenders shall have received an opinion, dated as of the Initial Funding Date, of counsel to each Obligor in form and substance acceptable to the Lenders and their counsel.

(iii) **Fees**. Administrative Agent shall have received, for the account of each Lender, the fees payable pursuant to the Fee Letter with respect to such Borrowing.

(b) **First Additional Tranche**. One subsequent Borrowing shall be subject to the following conditions precedent:

(i) **Borrowing Date**. Such Borrowing shall occur on or prior to June 30, 2021.

(ii) **Amount of Borrowing**. The amount of such Borrowing shall equal $10,000,000 (or, if requested by Borrower to be less than $10,000,000, in an amount equal to $7,500,000, $5,000,000 or $2,500,000).

(iii) **Borrowing Milestone**. Administrative Agent shall have received evidence in form and substance reasonably satisfactory to Administrative Agent demonstrating that Revenues for any twelve (12) consecutive month period ending after the Closing Date but on or prior to June 30, 2021 were greater than or equal to $50,000,000.

(iv) **Notice of Milestone Achievement and Audit**. Borrower shall have delivered to Administrative Agent a notice certifying satisfaction of the condition set forth in **Section 6.02(b)(iii)**, and Administrative Agent shall have been reasonably satisfied with the results of its audit of the Revenues by examining Borrower’s books and records.

(v) **Notice of Borrowing**. A Notice of Borrowing requesting such Borrowing shall have been received.

(vi) **Financing Fee**. Administrative Agent shall have received, for the account of each Lender, the fees payable pursuant to the Fee Letter with respect to such Borrowing.

(c) **Second Additional Tranche**. One subsequent Borrowing shall be subject to the following conditions precedent:

(i) **Borrowing Date**. Such Borrowing shall occur on or prior to December 31, 2021.

(ii) **Amount of Borrowing**. The amount of such Borrowing shall equal $10,000,000 (or, if requested by Borrower to be less than $10,000,000, in an amount equal to $7,500,000, $5,000,000 or $2,500,000).

(iii) **Borrowing Milestone**. Administrative Agent shall have received evidence in form and substance reasonably satisfactory to Administrative Agent demonstrating that Revenues for any twelve (12) consecutive month period ending after the Closing Date but on or prior to December 31, 2021 were greater than or equal to $65,000,000.

(iv) **Notice of Milestone Achievement and Audit**. Borrower shall have delivered to Administrative Agent a notice certifying satisfaction of the condition set forth in **Section 6.02(b)(iii)**, and Administrative Agent shall have been reasonably satisfied with the results of its audit of the Revenues by examining Borrower's books and records.

(v) **Notice of Borrowing**. A Notice of Borrowing requesting such Borrowing shall have been received.

(vi) **Financing Fee**. Administrative Agent shall have received, for the account of each Lender, the fees payable pursuant to the Fee Letter with respect to such Borrowing.

6.03 Conditions to Each Borrowing. The obligation of each Lender to make a Loan as part of any Borrowing (including the initial Borrowing made on the Initial Funding Date) is also subject to satisfaction of the following further conditions precedent on the applicable Borrowing Date, which shall have been satisfied or waived in writing by the Lenders:

(a) **Commitment Period**. Except in the case of any PIK Loan, such Borrowing Date shall occur during the Commitment Period.

(b) **No Default; Representations and Warranties; No Material Adverse Effect**. Both immediately prior to the making of such Loan and after giving effect thereto and to the intended use thereof:

(i) no Default shall have occurred and be continuing or would result from such proposed Loan or the application of the proceeds thereof;

(ii) with respect to any Loan (other than any PIK Loan), the representations and warranties made in **Section 7** and in the other Loan Documents shall be true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on and as of the Borrowing

Date, and immediately after giving effect to the application of the proceeds of the Borrowing, with the same force and effect as if made on and as of such date (except that the representation regarding representations and warranties that refer to a specific earlier date shall be that they were true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on such earlier date); and

(iii) no Material Adverse Effect has occurred or is reasonably likely to occur after giving effect to such proposed Borrowing.

(c) **Notice of Borrowing**. Except in the case of any PIK Loan, Administrative Agent shall have received a Notice of Borrowing as and when required pursuant to **Section 2.02**.

Each Borrowing shall constitute a certification by Borrower to the effect that the conditions set forth in this **Section 6.03** have been fulfilled as of the applicable Borrowing Date.

SECTION 7
REPRESENTATIONS AND WARRANTIES

Each Obligor represents and warrants to Administrative Agent and the Lenders that:

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

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

7.03 Governmental and Other Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority or any third party, except for (i) such as have been obtained or made and are in full force and effect and (ii) filings and recordings in respect of the Liens created pursuant

to the Security Documents, (b) will not violate any applicable law or regulation or the charter, bylaws or other organizational documents of Borrower or any of its Subsidiaries, (c) will not violate any order of any Governmental Authority applicable to Borrower or any Subsidiary, other than any such violations that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (d) will not violate or result in a default under any indenture, agreement or other instrument binding upon Borrower, any of its Subsidiaries or any of their respective assets, or give rise to a right thereunder to require any payment to be made by any such Person, and (e) will not result in the creation or imposition of any Lien (other than Permitted Liens) on any asset of Borrower and its Subsidiaries.

7.04 Financial Statements; Material Adverse Change.

(a) **Financial Statements**. Borrower has heretofore furnished to the Lenders certain financial statements as provided for in **Section 8.01**. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of Borrower and its Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the previously-delivered statements of the type described in **Section 8.01(a)**. Neither Borrower nor any of its Subsidiaries has any material contingent liabilities or unusual forward or long-term commitments not disclosed in the aforementioned financial statements.

(b) **No Material Adverse Change**. Since December 31, 2019, there has been no event, circumstance or condition that has had or could reasonably be expected to have a Material Adverse Change.

7.05 Properties.

(a) **Property Generally**. Borrower and each of its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal Property material to its business, subject only to Permitted Liens and except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) **Intellectual Property**.

(i) **Schedule 7.05(b)(i)** (as amended from time to time by Borrower in accordance with **Section 7.20**) contains:

(A) a complete and accurate list of all applied for or registered Patents, owned by or licensed to Borrower or any Subsidiary, including the jurisdiction and patent number;

(B) a complete and accurate list of all applied for or registered Trademarks, owned by or licensed to Borrower or any Subsidiary, including the jurisdiction, trademark application or registration number and the application or registration date;

(C) a complete and accurate list of all applied for or registered Copyrights, owned by or licensed to Borrower or any Subsidiary;

(D) a complete and accurate list of all material common-law Trademarks used by Borrower or any Subsidiary;

(E) a complete and accurate list of all trade names used by Borrower or any Subsidiary;

(F) a complete and accurate list of all material domain names and URLs owned by Borrower or any Subsidiary; and

(G) a complete and accurate list of each material inbound and outbound license of Borrower or any Subsidiary.

(ii) Each Obligor is the absolute beneficial owner of all right, title and interest in and to (except with respect to any in-licensed Obligor Intellectual Property) and has the right to use its Obligor Intellectual Property with no breaks in chain of title with good and marketable title, free and clear of any Liens or Claims of any kind whatsoever other than Permitted Liens. Without limiting the foregoing, and except as set forth in **Schedule 7.05(b)(ii)**:

(A) other than with respect to the Material Agreements, or as permitted by **Section 9.09**, the Obligors have not transferred ownership of Material Intellectual Property, in whole or in part, to any other Person who is not an Obligor;

(B) other than (1) the Material Agreements, (2) customary restrictions in in-bound licenses of Intellectual Property and non-disclosure agreements, or (3) as would have been or is permitted by **Section 9.09**, there are no judgments, covenants not to sue, permits, grants, licenses, Liens (other than Permitted Liens), Claims, or other agreements or arrangements relating to the Material Intellectual Property, including any development, submission, services, research, license or support agreements, which bind, obligate or otherwise restrict the Obligors;

(C) to any Obligor's Knowledge, the use of any of the Obligor Intellectual Property and the conduct of the Obligors' business does not breach, violate, infringe or interfere in any respect with or constitute a misappropriation of any valid rights arising under any Intellectual Property of any other Person;

(D) there are no pending or, to any Obligor's Knowledge, threatened in writing Claims against the Obligors asserted by any other Person relating to the Obligor Intellectual Property, including any Claims of adverse ownership, invalidity, infringement, misappropriation, violation or other opposition to or conflict with such Obligor Intellectual Property; no Obligor has received any written notice from any Person that any Obligor's business, the use of the Obligor Intellectual Property, or the manufacture, use or sale of any product or the performance of any service or procedure by any Obligor infringes upon, violates or constitutes a misappropriation of, or may infringe upon, violate or constitute a misappropriation of, or otherwise interfere with, any other Intellectual Property of any other Person;

(E) no Obligor has taken or failed to take any action that could adversely affect or otherwise impair the validity and/or enforceability of, or any Obligor's rights in, any Material Intellectual Property; no Obligor has initiated the enforcement of any Claim with respect to any of the Obligor Intellectual Property;

(F) all relevant current and former employees and contractors of each Obligor have executed written confidentiality and invention assignment Contracts with such Obligor that irrevocably assign to such Obligor or its designee all of their rights to any Inventions relating to any Obligor's business that are conceived or reduced to practice by such employees within the scope of their employment or by such contractors within the scope of their contractual relationship with Borrower, to the extent permitted by applicable Law;

(G) the Obligor Intellectual Property is all the Intellectual Property adequate for the operation of Obligors' business as it is currently conducted or as currently contemplated to be conducted;

(H) each Obligor has taken reasonable precautions to protect the secrecy, confidentiality and value of the Obligor Intellectual Property consisting of trade secrets and confidential information;

(I) the Obligors have delivered to Administrative Agent accurate and complete copies of all Material Agreements relating to the Obligor Intellectual Property;

(J) there are no pending or, to the Knowledge of any of the Obligors, threatened Claims against Borrower or any of its Subsidiaries asserted by any other Person relating to the Material Agreements, including any Claims of breach or default under such Material Agreements;

(K) no Obligor has made any assignment or agreement in conflict in any material respect with, and no license agreement with respect to, any Obligor Intellectual Property conflicts in any material respect with the Lien on and security interest in the Material Intellectual Property granted to Administrative Agent, for the benefit of the Secured Parties, pursuant to the terms of the Security Documents; and

(L) the consummation of the transactions contemplated hereby and the exercise by Administrative Agent or any Secured Party of any right or protection set forth in the Loan Documents will not constitute a breach or violation of, or otherwise affect the use or enforceability of, any inbound or outbound licenses associated with any Obligor Intellectual Property in any material respect.

(iii) With respect to the Obligor Intellectual Property, except as set forth in **Schedule 7.05(b)(ii)**, and without limiting the representations and warranties in **Section 7.05(b)(ii)**:

(A) each item of Material Intellectual Property is subsisting and, to Obligors' Knowledge, is valid and enforceable;

(B) the inventors of each Patent comprised in the Obligor Intellectual Property have executed written Contracts with an Obligor or its predecessor-in-interest that properly and irrevocably assign to an Obligor or its predecessor-in-interest all of their rights to any of the Inventions claimed in such Patents to the extent permitted by applicable law;

(C) no items of Obligor Intellectual Property have been abandoned or dedicated to the public except as a result of intentional, commercially-reasonable decisions made by the applicable Obligor;

(D) to any Obligor's Knowledge, all prior art material to the Patents included in the Obligor Intellectual Property was adequately disclosed to or considered by the respective patent offices during prosecution of such Patents as required by applicable law or regulation;

(E) subsequent to the issuance of the Patents included in the Obligor Intellectual Property, neither any Obligor nor its predecessors in interest have filed any disclaimer or filed any other voluntary reduction in the scope of the Inventions claimed in such Patents;

(F) no allowable or allowed subject matter of the Patents included in the Obligor Intellectual Property, to any Obligor's Knowledge, is subject to any competing conception claims of allowable or allowed subject matter of any patent applications or patents of any third party and have not been the subject of any interference, re-examination, inter partes review, post grant review or opposition proceedings, nor are the Obligors aware of any basis for any such interference, re-examination, inter partes review, post grant review or opposition proceedings;

(G) no Obligor Intellectual Property has ever been finally adjudicated to be invalid, unpatentable or unenforceable for any reason in any administrative, arbitration, judicial or other proceeding, and, with the exception of rejections issued by a Governmental Authority in the ordinary course of prosecuting Patent or Trademark applications, no Obligor has received any notice asserting that such Obligor Intellectual Property are invalid, unpatentable or unenforceable; if any Patent included in the Obligor Intellectual Property is terminally disclaimed to another patent or patent application, all patents and patent applications subject to such terminal disclaimer are included in the Collateral;

(H) no Obligor has received an opinion, whether preliminary in nature or qualified in any manner, which concludes that a challenge to the validity or enforceability of any Obligor Intellectual Property is more likely than not to succeed;

(I) no Obligor has any Knowledge that any Obligor or any prior owner of any Patent included in the Obligor Intellectual Property or any of their respective agents or representatives have engaged in any conduct, or omitted to perform any necessary act, the result of which would invalidate or render invalid or unenforceable any such Patents; and

(J) all maintenance fees, renewal fees, annuities, and the like due or payable on the Obligor Intellectual Property have been timely paid, and all other acts required to maintain the same in full force and effect have been performed, except where the failure to do so was the result of an intentional decision by the applicable Obligor and could not reasonably be expected to result in a Material Adverse Change.

(iv) None of the foregoing representations and statements of fact contains any untrue statement of material fact or omits to state any material fact necessary to make any such statement or representation not misleading to a prospective Lender seeking full information as to the Obligor Intellectual Property or the business of Borrower and its Subsidiaries.

(c) **Material Intellectual Property**. **Schedule 7.05(c)** (as amended from time to time by Borrower in accordance with **Section 7.20**) contains an accurate list of the Obligor Intellectual Property that is material to the business of any Obligor with an indication as to whether the applicable Obligor owns or has an exclusive or non-exclusive license to such Obligor Intellectual Property.

7.06 No Actions or Proceedings.

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

(b) **Environmental Matters**. Except with respect to matters that (either individually or in the aggregate) could not reasonably be expected to have a Material Adverse Effect, (i) the operations and Property of Borrower and its Subsidiaries comply with all applicable Environmental Laws, and (ii) neither Borrower nor any Subsidiary has become subject to any Environmental Liability, has received written notice of any claim with respect to any Environmental Liability or has any Knowledge of any basis for any Environmental Liability.

(c) **Labor Matters**. Borrower and its Subsidiaries have not engaged in unfair labor practices that could reasonably be expected to have a Material Adverse Effect and there are no material labor actions or disputes involving the employees of Borrower or its Subsidiaries that could reasonably be expected to have a Material Adverse Effect.

7.07 Compliance with Laws and Agreements. Borrower and each of its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

7.08 Taxes. All federal, state, local and foreign income and franchise and other material Tax returns, reports and statements (collectively, the ***"Tax Returns"***) required to be filed by any Tax Affiliate have been timely filed with the appropriate Governmental Authorities, all such Tax Returns are true, correct and complete in all material respects, and all Taxes reflected therein or otherwise due and payable have been timely paid (except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP). No Tax Return is under audit or examination by any Governmental Authority and no notice of any material audit or examination or any assertion of any claim for Taxes has been given or made by any Governmental Authority. Proper and accurate amounts have been withheld by each Tax Affiliate from their respective employees for all periods in full and complete compliance with the Tax, social security and unemployment withholding provisions of applicable Laws and such withholdings have been timely paid to the respective Governmental Authorities. No Tax Affiliate has participated in a **"**listed transaction**"** within the meaning of Treasury Regulation Section 1.6011-4(b)(2).

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

7.10 Regulation.

(a) **Investment Company Act**. Neither Borrower nor any of its Subsidiaries is or is required to register as an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

(b) **Margin Stock**. Neither Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock, and no part of the proceeds of the Loans will be used to buy or carry any Margin Stock in violation of Regulation T, U or X.

(c) **OFAC; Sanctions, Etc.** Neither Borrower nor any of its Subsidiaries or, to the Knowledge of any Obligor, any Related Person (i) is currently the subject of any Sanctions or is a Sanctioned Person, (ii) is located (or has its assets located), organized or residing in any Sanctioned Jurisdiction, (iii) is or has been (within the previous five (5) years) engaged in any impermissible transaction with any Person who is now or was then the subject of Sanctions or who is located, organized or residing in any Sanctioned Jurisdiction, (iv) directly or indirectly derives revenues from investments in, or transactions with, Sanctioned Persons, (v) has taken any action, directly or indirectly, that would result in a violation by such Persons of any Anti-Corruption Laws, or (vi) has violated any Anti-Money Laundering Laws. No Loan, nor the proceeds from any Loan, has been or will be used, directly or indirectly, to lend, contribute or provide to, or has been or will be otherwise made available to fund, any impermissible activity or business of any Person located, organized or residing in any Sanctioned Jurisdiction or who is the subject of any Sanctions, or in any other manner that will result in any violation by any Person (including the Lender and its Affiliates) of Sanctions or otherwise in violation of any Anti-Corruption Laws or Anti-Money Laundering Laws. Each of Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures designed to promote compliance by Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Related Persons with the Anti-Corruption Laws.

7.11 Solvency. Borrower is, and Borrower and its Subsidiaries, on a consolidated basis, are and, immediately after giving effect to each Borrowing and the use of proceeds thereof, will be Solvent.

7.12 Subsidiaries. Set forth on **Schedule 7.12** (as amended from time to time by Borrower in accordance with **Section 7.20**) is a complete and correct list of all Subsidiaries. Each such Subsidiary is duly organized and validly existing under the jurisdiction of its organization shown in said **Schedule 7.12**, and the percentage ownership by Borrower or such other Subsidiary, as applicable, of each such Subsidiary is as shown in said **Schedule 7.12**. **Schedule 7.12** also identifies each Subsidiary that is an Excluded Subsidiary. Neither Borrower nor any Subsidiary has outstanding any shares of Disqualified Equity Interests.

7.13 Indebtedness and Liens. Set forth on **Part I** of **Schedule 7.13(a)** is a complete and correct list of all Indebtedness of Borrower and its Subsidiaries outstanding as of the Closing Date (other than (x) the Obligations, (y) any Permitted Priority Debt and (z) Indebtedness under the Existing Loan Agreement). Set forth on **Part I** of **Schedule 7.13(b)** is a complete and correct list of all Liens granted by Borrower and its Subsidiaries with respect to their respective Properties that are outstanding as of the Closing Date (other than (x) the Liens created under the Security Documents securing the Obligations, (y) Liens securing Permitted Priority Debt permitted under **Section 9.02(c)** and (z) Liens securing Indebtedness under the Existing Loan Agreement).

7.14 Material Agreements. Set forth on **Schedule 7.14** (as amended from time to time by Borrower in accordance with **Section 7.20**) is a complete and correct list of (a) each Material Agreement and (b) each agreement creating or evidencing any Material Indebtedness (in each case, other than (x) the Loan Documents, (y) the Existing Loan Agreement and (z) the documentation governing the Permitted Priority Debt). Neither Borrower nor any of its Subsidiaries is in default under any Material Agreement or agreement creating or evidencing any Material Indebtedness. Except as otherwise disclosed on **Schedule 7.14** (without giving effect to any updates to **Schedule 7.14** after the Closing Date pursuant to **Section 7.20**), all Material Agreements of Borrower and its Subsidiaries are in full force and effect without material modification from the form in which the same were disclosed to Administrative Agent and the Lenders.

7.15 Restrictive Agreements. Neither Borrower nor any Subsidiary is subject to any Restrictive Agreement except those permitted under **Section 9.11**.

7.16 Real Property. Neither Borrower nor any of its Subsidiaries owns or leases (as tenant thereof) any real property, except as described on **Schedule 7.16** (as amended from time to time by Borrower in accordance with **Section 7.20**).

7.17 Pension Matters. **Schedule 7.17** sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans, (b) all Multiemployer Plans and (c) all material Benefit Plans. Each Benefit Plan, and each trust thereunder, intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Requirements of Law so qualifies. Except for those that could not, in the aggregate, have a Material Adverse Effect, (x) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the Knowledge of any Obligor or Subsidiary thereof, threatened in writing) claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Benefit Plan to which any Obligor or Subsidiary thereof incurs or otherwise has or could have an obligation or any liability or Claim and (z) no ERISA Event is reasonably expected to occur. Borrower and each of its ERISA Affiliates has met all applicable requirements under the ERISA

Funding Rules with respect to each Title IV Plan, and no waiver of the minimum funding standards under the ERISA Funding Rules has been applied for or obtained. As of the most recent valuation date for any Title IV Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least sixty percent (60%), and neither Borrower nor any of its ERISA Affiliates knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage to fall below sixty percent (60%) as of the most recent valuation date. As of the date hereof, no ERISA Event has occurred in connection with which obligations and liabilities (contingent or otherwise) remain outstanding. No ERISA Affiliate would have any Withdrawal Liability as a result of a complete withdrawal from any Multiemployer Plan on the date this representation is made. The Obligors represent and warrant as of the date hereof that each of them is not and will not be using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to Borrower's entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement.

7.18 Collateral; Security Interest. Each Security Document is effective to create in favor of Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable security interest in the Collateral subject thereto and each such security interest is perfected to the extent required by (and has the priority required by) the applicable Security Document. The Security Documents collectively are effective to create in favor of Administrative Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral, which security interests are first-priority (subject only to (x) Permitted Priority Liens and (y) solely until the initial Borrowing hereunder on the Initial Funding Date, Liens in favor of Silicon Valley Bank under the Existing Loan Agreement) to the extent required by the Security Documents.

7.19 Regulatory Approvals. Borrower and its Subsidiaries hold, and will continue to hold, either directly or through licensees and agents, all Regulatory Approvals, licenses, permits and similar governmental authorizations of a Governmental Authority necessary or required for Borrower and its Subsidiaries to conduct their operations and business in the manner currently conducted. Neither Borrower nor any of its Subsidiaries owns or leases a manufacturing or testing facility that requires a federal, FDA or equivalent state medical testing facility license.

7.20 Update of Schedules. Each of **Schedules 7.05(b)(i)**, **7.05(c)**, **7.12**, **7.14** and **7.16** may be updated by Borrower from time to time in order to ensure the continued accuracy of each such Schedule as of any upcoming date (other than a Borrowing Date with respect to a PIK Loan) on which representations and warranties are made incorporating the information contained on such Schedule. Such update may be accomplished by Borrower providing to Administrative Agent, in writing (including by electronic means), at Borrower's discretion, either, a revised version of such Schedule or an update showing only the changes to such Schedule since the Closing Date or the most recent update pursuant to this **Section 7.20**, as the case may be, in accordance with the provisions of **Section 13.02**. Each such updated Schedule shall be effective immediately upon the receipt thereof by Administrative Agent.

SECTION 8
AFFIRMATIVE COVENANTS

Each Obligor covenants and agrees with Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than contingent indemnification obligations for which no claim has been made) have been paid in full in cash:

8.01 Financial Statements and Other Information. Borrower shall furnish to Administrative Agent (and, in the case of **Sections 8.01(a)** through **(c)**, **(e)**, **(i)** and **(k)**, the VCOC Lender):

(a) as soon as available and in any event within (i) forty-five (45) days after the end of the first three fiscal quarters of each fiscal year and (ii) sixty (60) days after the end of the fourth fiscal quarter of each fiscal year, the consolidated balance sheets of the Borrower and its Subsidiaries as of the end of such quarter, and the related consolidated statements of income, shareholders' equity and cash flows of Borrower and its Subsidiaries for such quarter and the portion of the fiscal year through the end of such quarter, prepared in accordance with GAAP consistently applied, all in reasonable detail and setting forth in comparative form the figures for the corresponding period in the preceding fiscal year, together with a certificate of a Responsible Officer of Borrower that is a financial officer stating that such financial statements fairly present in all material respects the financial condition of Borrower and its Subsidiaries as at such date and the results of operations of Borrower and its Subsidiaries for the period ended on such date and have been prepared in accordance with GAAP consistently applied, subject to changes resulting from normal, year-end audit adjustments and except for the absence of notes;

(b) as soon as available and in any event within one hundred fifty (150) days after the end of each fiscal year, the consolidated balance sheets of Borrower and its Subsidiaries as of the end of such fiscal year, and the related consolidated statements of income, shareholders' equity and cash flows of Borrower and its Subsidiaries for such fiscal year, prepared in accordance with GAAP consistently applied, all in reasonable detail and setting forth in comparative form the figures for the previous fiscal year, accompanied by a report and opinion thereon of Grant Thornton LLP or another firm of independent certified public accountants of recognized national or regional standing reasonably acceptable to the Lenders, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit;

(c) together with the financial statements required pursuant to **Sections 8.01(a)** and **(b)**, a compliance certificate of a Responsible Officer of Borrower that is a financial officer as of the end of the applicable accounting period (which delivery may, unless a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes) in the form of **Exhibit D** (a "***Compliance Certificate***");

(d) promptly upon receipt thereof, copies of all material letters of representation signed by Borrower or any of its Subsidiaries to its auditors and copies of all auditor reports, if any, delivered for each fiscal quarter;

(e) as soon as available, but in no event later than March 31st of each fiscal year of Borrower, a consolidated financial forecast for Borrower and its Subsidiaries for the following five fiscal years (including, for the avoidance of doubt, the fiscal year in which such forecast is delivered), including forecasted consolidated balance sheets, consolidated statements of income, shareholders' equity and cash flows of Borrower and its Subsidiaries;

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

(g) the information regarding insurance maintained by Borrower and its Subsidiaries as required under **Section 8.05**;

(h) promptly following Administrative Agent's request at any time, evidence of the Obligors' compliance with **Section 10.01**;

(i) within five (5) days of delivery, copies of all statements, reports and notices (including board kits) made available to Borrower's Board, holders of Borrower's Equity Interests or holders of Permitted Priority Debt; *provided*, that any such material may be redacted by Borrower if Borrower's Board determines in good faith that (i) such redaction is reasonably necessary to exclude information relating to Borrower's strategy regarding the Loans or, upon the advice of counsel, to preserve attorney-client privilege or (ii) such material constitutes confidential non-financial trade secrets or non-financial proprietary information;

(j) promptly after any Responsible Officer of an Obligor becoming aware, or having reason to become aware, that the SBA or any other applicable Governmental Authority has determined that any portion of the Permitted PPP Debt is, or will in the future, not be eligible for forgiveness pursuant to the Paycheck Protection Program as provided in Section 7(a) of the Small Business Act; and

(k) promptly following Administrative Agent's reasonable request from time to time, such other information respecting the operations, properties, business or condition (financial or otherwise) of Borrower and its Subsidiaries (including, without limitation, pursuant to or in response to any environmental, social and governance policies and questionnaires of Administrative Agent or any Lender).

8.02 Notices of Material Events.

(a) Obligors shall furnish to Administrative Agent written notice of the following promptly after a Responsible Officer of Borrower or any Subsidiary first learns of the existence of:

(i) the occurrence of any Default;

(ii) the occurrence of any event with respect to property or assets of Borrower or any Subsidiary resulting in a Loss aggregating $1,000,000 (or the Equivalent Amount in other currencies) or more;

(iii) (A) any proposed acquisition of Equity Interests, assets or property by Borrower or any Subsidiary that could reasonably be expected to result in environmental liability under Environmental Laws which could reasonably be expected to result in a Material Adverse Effect, or (B)(1) any spillage, leakage, discharge, disposal, leaching, migration or release of any Hazardous Material required to be reported by Borrower or any Subsidiary to any Governmental Authority under applicable Environmental Laws which could reasonably be expected to have a Material Adverse Effect, or (2) any action, suit, claim, notice of violation, hearing, investigation or proceeding pending, or to any Obligor's Knowledge, threatened in writing against or affecting Borrower or any of its Subsidiaries or with respect to the ownership, use, maintenance and operation of their respective businesses, operations or properties, relating to Environmental Laws or Hazardous Material which could reasonably be expected to have a Material Adverse Effect;

(iv) the assertion in writing of any environmental matter by any Person against, or with respect to the activities of, Borrower or any of its Subsidiaries and any alleged violation of or non-compliance with any Environmental Laws or any permits, licenses or authorizations which could reasonably be expected to involve damages in excess of $1,000,000 other than any environmental matter or alleged violation that, if adversely determined, could not (either individually or in the aggregate) reasonably be expected to have a Material Adverse Effect;

(v) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting Borrower or any of its Subsidiaries that, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

(vi) (A) on or prior to any filing by any ERISA Affiliate of any notice of intent to terminate any Title IV Plan, a copy of such notice and (B) promptly, and in any event within ten (10) days, after any Responsible Officer of any ERISA Affiliate knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan or Multiemployer Plan, a notice (which may be made by telephone if promptly confirmed in writing) describing such waiver request and any action that any ERISA Affiliate proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto;

(vii) (A) the termination of any Material Agreement (other than upon the expiration thereof in accordance with its terms); (B) the receipt by Borrower or any of its Subsidiaries of any material notice under any Material Agreement; (C) the entering into of any new Material Agreement by Borrower or any Subsidiary; or (D) any material amendment to a Material Agreement;

(viii) the reports and notices required by the Security Documents;

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

(x) promptly after the occurrence thereof, notice of any labor controversy resulting in or threatening in writing to result in any strike, work stoppage, boycott, shutdown or other material labor disruption against or involving Borrower or any Subsidiary which could reasonably be expected to result in a Material Adverse Effect;

(xi) the entering into by Borrower or any Subsidiary of a licensing agreement or arrangement in connection with any infringement or alleged infringement of the Intellectual Property of another Person; and

(xii) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this **Section 8.02(a)** shall be accompanied by a statement of a financial officer or other executive officer of Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

(b) The Obligors shall furnish to Administrative Agent, concurrently with the delivery of financial statements under **Section 8.01(a)**, written notice of the creation or other acquisition of any Intellectual Property by Borrower or any Subsidiary after the Closing Date and during such prior fiscal quarter which is registered or becomes registered or the subject of an application for registration with the U.S. Copyright Office or the U.S. Patent and Trademark Office, as applicable, or with any other equivalent foreign Governmental Authority.

(c) The Obligors shall furnish to Administrative Agent written notice of any change to any Obligor's ownership of Deposit Accounts, Securities Accounts and Commodity Accounts, by delivering to Administrative Agent an updated Schedule 7 to the Security Agreement setting forth a complete and correct list of all such accounts within fifteen (15) days of such change.

(d) The Obligors promptly shall furnish to Administrative Agent such other information respecting the operations, properties, business or condition (financial or otherwise) of Borrower and its Subsidiaries (including with respect to the Collateral) as Administrative Agent may from time to time reasonably request.

8.03 Existence; Conduct of Business. Such Obligor shall, and shall cause each of its Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; *provided*, that the foregoing shall not prohibit any merger, amalgamation, consolidation, liquidation or dissolution permitted under **Section 9.03**.

8.04 Payment of Obligations. Such Obligor shall, and shall cause each of its Subsidiaries to, pay and discharge its obligations, including (a) all Taxes, fees, assessments and governmental charges or levies imposed upon it or upon its properties or assets prior to the date on which penalties attach thereto, and all lawful claims for labor, materials and supplies which, if unpaid, might become a Lien upon any properties or assets of Borrower or any Subsidiary, except to the extent such Taxes, fees, assessments or governmental charges or levies, or such claims are being contested in good faith by appropriate proceedings and are adequately reserved against in accordance with GAAP; and (b) all lawful claims which, if unpaid, would by law become a Lien upon its property not constituting a Permitted Lien.

8.05 Insurance. Such Obligor shall, and shall cause each of its Subsidiaries to, maintain insurance with financially sound and reputable insurance companies in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations. Upon the request of Administrative Agent or the Majority Lenders, such Obligor shall, and shall cause each of its Subsidiaries to, furnish Administrative Agent from time to time with full information as to the insurance carried by it and, if so requested, copies of all such insurance policies. Such Obligor also shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to furnish to Administrative Agent from time to time upon the request of Administrative Agent or the Majority Lenders a certificate from such Obligor's insurance broker or other insurance specialist stating that all premiums then due on the policies relating to insurance on the Collateral have been paid and that such policies are in full force and effect. Such Obligor shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to ensure, or cause others to ensure, that all insurance policies required under this **Section 8.05** shall provide that they shall not be terminated or cancelled nor shall any such policy be materially changed in a manner adverse to such Person without at least thirty (30) days' prior written notice (or such lesser amount as Administrative Agent may agree) to such Person and Administrative Agent. Receipt of notice of termination or cancellation of any such insurance policies or reduction of coverages or amounts thereunder shall entitle the Secured Parties to renew any such policies, cause the coverages and amounts thereof to be maintained at levels required pursuant to the first sentence of this **Section 8.05** or otherwise to obtain similar insurance in place of such policies, in each case at the expense of the Obligors (payable on demand). The amount of any such expenses shall accrue interest at the Default Rate if not paid on demand, and shall constitute "Obligations**.**" Such Obligor shall, and shall cause each of its Subsidiaries to, cause Administrative Agent and its successors and/or assigns to be named as lender's loss payee or mortgagee as its interest may appear, and/or additional insured with respect to any such insurance providing liability coverage or coverage in respect of any Collateral, and cause each provider of any such insurance to agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Administrative Agent, that it will give Administrative Agent thirty (30) days (or such lesser amount as Administrative Agent may agree) prior written notice before any such policy or policies shall be altered or canceled.

8.06 Books and Records; Inspection Rights.

(a) Such Obligor shall, and shall cause each of its Subsidiaries to, keep proper books of record and account in which full, true and correct entries are made sufficient for the preparation of financial statements in accordance with GAAP.

(b) Such Obligor shall, and shall cause each of its Subsidiaries to, permit any representatives designated by Administrative Agent and each VCOC Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, to inspect its facilities and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and intervals (but not more often than once per fiscal year unless an Event of Default has occurred and is continuing) as Administrative Agent or a VCOC Lender, as applicable, may request.

(c) Such Obligor shall, and shall cause each of its Subsidiaries to, ensure that Administrative Agent and each VCOC Lender, and any representative designated by Administrative Agent and each VCOC Lender (as applicable), shall be entitled to consult with and advise management of Borrower and its Subsidiaries on matters relating to the operation and business of Borrower and its Subsidiaries, including management's proposed annual operating plans and budgets, and management shall use commercially reasonable efforts to make itself available to meet with Administrative Agent or such VCOC Lender, or any representatives designated by Administrative Agent or such VCOC Lender, regularly during each year at the facilities of Borrower and its Subsidiaries at mutually agreeable times for such consultation and advice and to review progress in achieving said plans; *provided*, that such meetings do not cause any material disruption of the business.

(d) To the extent not duplicative with **Section 8.15**, such Obligor shall permit, and shall cause each of its Subsidiaries to permit, each VCOC Lender or any representative designated by any VCOC Lender to attend all meetings of its Board as a non-voting observer, except that such representative may be excluded from access to such meeting (or portion thereof) or any material during any such meeting if its Board determines in good faith, upon advice of counsel, that such exclusion is reasonably necessary to preserve attorney-client privilege or to protect highly confidential non-financial trade secrets or non-financial proprietary information of such Obligor. Upon reasonable notice and at a scheduled meeting of the Board of such Obligor or such Subsidiary, as the case may be, or such other time, if any, as such Board may determine in its sole discretion (but no more than two (2) times per year, so long as no Event of Default has occurred and is continuing), such Obligor shall, and shall cause each of its Subsidiaries to, ensure that such VCOC Lender or such representative may address such Board with respect to such VCOC Lender's concerns regarding significant business issues facing Borrower and its Subsidiaries. The VCOC Lenders shall use commercially reasonable efforts to coordinate the exercise of their rights under this **clause (d)** with one another and with the Administrative Agent to the extent that the Administrative Agent has any similar rights under this Agreement or any other Loan Document.

(e) The Obligors shall pay all reasonable and documented out-of-pocket costs of all such inspections and meetings; *provided*, that so long as no Event of Default has occurred and is continuing, (i) in the case of inspections, the Obligors shall not be required to pay such expenses for more than one (1) inspection for each fiscal year and (ii) in the case of meetings, the Obligors shall not be obligated to pay such expenses for more than one (1) meeting per fiscal year.

(f) If Administrative Agent's or any VCOC Lender's outside counsel determines in writing that other rights of consultation are necessary under applicable legal authorities promulgated after the Closing Date to preserve the qualification of Administrative Agent's, the VCOC Lender's or any Lender's investment as a "venture capital investment" for purposes of ERISA, the Obligors shall work in good faith to agree to an amendment to this **Section 8.06** to reflect such other rights at the VCOC Lender's sole expense.

8.07 Compliance with Laws and Other Obligations. Such Obligor shall, and shall cause each of its Subsidiaries to, (a) comply in all material respects with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including Environmental Laws) and (b) comply in all material respects with all terms of Indebtedness and all other Material Agreements.

8.08 Maintenance of Properties, Etc.

(a) Such Obligor shall, and shall cause each of its Subsidiaries to, maintain and preserve all of its properties necessary or useful in the proper conduct of its business in good working order and condition in accordance with the general practice of other Persons of similar character and size, ordinary wear and tear and damage from casualty or condemnation excepted.

(b) Such Obligor shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts to renew, prosecute, enforce and maintain its Obligor Intellectual Property, excluding (i) the renewal, prosecution and maintenance of its Obligor Intellectual Property that in the commercially reasonable business judgment of such Obligor is not (A) necessary or material for the conduct of the businesses of Borrower and its Subsidiaries or (B) material to the value of such Obligor or Subsidiary and (ii) the prosecution of its Obligor Intellectual Property for which such Obligor has a good faith business purposes for not prosecuting.

8.09 Licenses.

(a) Such Obligor shall, and shall cause each of its Subsidiaries to, obtain, maintain and comply with all material licenses, authorizations, accreditations, consents, filings, exemptions, registrations and other Governmental Approvals that are material to or necessary in connection with the execution, delivery and performance of the Loan Documents, the consummation of the Transactions or the operation and conduct of its business and ownership of its properties.

(b) Promptly after entering into or becoming bound by any inbound license or other similar agreement (other than over-the-counter software that is commercially available to the public), the failure, breach or termination of which could reasonably be expected to cause a Material Adverse Effect or a material adverse effect on the commercialization of any material product of, or performance of any material service or procedure by, such Obligor or any of its Subsidiaries, such Obligor shall: (i) provide written notice to Administrative Agent of the material terms of such license or agreement with a description of its likely impact on such Obligor's or Subsidiary's business or financial condition and (ii) if the party to such license or agreement is an Obligor, in good faith take such actions as Administrative Agent may reasonably request to obtain the consent of, or waiver by, any Person whose consent or waiver is necessary for (A) such Obligor's interest in such licenses or contract rights to be deemed Collateral and for Administrative Agent to have a security interest therein that might otherwise be restricted by the terms of the applicable license or agreement, whether now existing or entered into in the future, and (B) Administrative Agent to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Administrative Agent's exercise of its rights and remedies under this Agreement and the other Loan Documents; *provided*, *however*, that the failure to obtain any such consent or waiver shall not in and of itself constitute a Default under this Agreement.

8.10 Action under Environmental Laws. Such Obligor shall, and shall cause each of its Subsidiaries to, upon becoming aware of the presence of any Hazardous Materials or the existence of any environmental liability under applicable Environmental Laws with respect to their respective businesses, operations or properties, take all actions, at their cost and expense, as shall be necessary or advisable to investigate and clean up the condition of their respective businesses, operations or properties, including all required removal, containment and remedial actions, and restore their respective businesses, operations or properties to a condition in compliance with applicable Environmental Laws.

8.11 Use of Proceeds. Such Obligor shall, and shall cause each of its Subsidiaries to, use the proceeds of the Loans only as provided in **Section 2.04**.

8.12 Certain Obligations Respecting Subsidiaries; Further Assurances.

(a) **Subsidiary Guarantors**. Such Obligor shall take such action, and shall cause each of its Subsidiaries to take such action, from time to time as shall be necessary to ensure that, at all times, all Subsidiaries (other than any Excluded Subsidiary not required to be a Subsidiary Guarantor under **Section 8.12(b)**), are "Subsidiary Guarantors" hereunder. Without limiting the generality of the foregoing, in the event that Borrower or any of its Subsidiaries shall form or acquire any new Subsidiary (other than any new Excluded Subsidiary not required to be a Subsidiary Guarantor under **Section 8.12(b)**) (it being understood that any Excluded Subsidiary ceasing to be an Excluded Subsidiary but remaining a Subsidiary shall be deemed to be formed or acquired at the time it ceases to be an Excluded Subsidiary for purposes of this **Section 8.12**), such Obligor and its Subsidiaries shall, within thirty (30) days of such formation or acquisition (or such longer time as consented to by Administrative Agent in writing):

(i) cause such new Subsidiary to become a "Subsidiary Guarantor" hereunder, and a "Grantor" under the Security Agreement, pursuant to a Guarantee Assumption Agreement;

(ii) take such action or cause such Subsidiary to take such action (including delivering certificates evidencing Equity Interests together with undated transfer powers executed in blank) as shall be necessary to create and perfect valid and enforceable first priority (subject to Permitted Priority Liens) Liens on substantially all of the Property of such new Subsidiary (other than any Excluded Assets (as defined in the Security Agreement)) as collateral security for the Obligations;

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

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

(b) **Excluded Subsidiaries**. In the event that, at any time, Excluded Subsidiaries have, in the aggregate, (i) for any fiscal quarter (as reported pursuant to **Section 8.01(a)**), total Revenues constituting five percent (5%) or more of the total Revenues of Borrower and its Subsidiaries on a consolidated basis for such period, or (ii) total assets constituting five percent (5%) or more of the total assets of Borrower and its Subsidiaries on a consolidated basis as of the last day of any fiscal quarter (as reported pursuant to **Section 8.01(a)**), Obligors shall, promptly (and, in any event, within thirty (30) days after such time) Obligors shall cause one or more of such Excluded

Subsidiaries to become Subsidiary Guarantors in the manner set forth in **Section 8.12(a)**, such that, after such Excluded Subsidiaries become Subsidiary Guarantors, the other Excluded Subsidiaries that did not become Subsidiary Guarantors in the aggregate shall cease to have Revenues or assets, as applicable, that meet the thresholds set forth in **clauses (i)** and **(ii)** above; *provided*, that no Excluded Subsidiary shall be required to become a Subsidiary Guarantor if doing so would result in material adverse tax consequences for Borrower and its Subsidiaries, taken as a whole. For the purposes of this **Section 8.12(b)**, the determination of whether a "material adverse tax consequence" shall be deemed to result from any Excluded Subsidiary becoming a Subsidiary Guarantor shall be made by Majority Lenders in their sole discretion, following consultation with Borrower.

(c) **Further Assurances**.

(i) Such Obligor shall cause (A) one hundred percent (100%) of the issued and outstanding Equity Interests of each Subsidiary (other than a First-Tier Excluded Subsidiary) directly owned by such Obligor and (B) with respect to each First-Tier Excluded Subsidiary directly owned by such Obligor, (1) if such grant and Lien in a greater percentage would result in material adverse tax consequences for Borrower and its Subsidiaries, taken as a whole, sixty-five percent (65%) of each class of voting Equity Interests and one hundred percent (100%) of all other Equity Interests in such First-Tier Excluded Subsidiary and (2) in any other case, one hundred percent (100%) of the Equity Interests of such First-Tier Excluded Subsidiary, in each case, to be subject at all times to a first priority, perfected Lien in favor of Administrative Agent, for the benefit of the Secured Parties, pursuant to the terms and conditions of the Security Documents, together with opinions of counsel and any necessary local law security documents, filings and deliveries (including, without limitation, deliveries of certificated securities) necessary in connection therewith to perfect the security interests therein, all in form and substance satisfactory to Administrative Agent. For the purposes of this **Section 8.12(b)**, the determination of whether a "material adverse tax consequence" shall be deemed to result from any Obligor granting a perfected first priority security interest and Lien in more than sixty-five percent (65%) of the voting Equity Interests of a First-Tier Excluded Subsidiary, shall be made by Majority Lenders in their sole discretion, following consultation with Borrower.

(ii) Such Obligor shall cause all of its owned real property and personal property (in each case, other than property expressly excluded pursuant to the terms of the Security Documents) to be subject at all times to first priority, perfected and, in the case of owned real property, title insured Liens (subject only to (x) Permitted Priority Liens and (y) solely until the initial Borrowing hereunder on the Initial Funding Date, Liens in favor of Silicon Valley Bank under the Existing Loan Agreement) in favor of Administrative Agent to secure the Obligations pursuant to the Security Documents or, with respect to any such property acquired subsequent to the Closing Date, such other additional security documents as Administrative Agent shall request and, in connection with the foregoing, deliver to Administrative Agent such other documentation as Administrative Agent may request including filings and deliveries necessary to perfect such Liens, constitutive documents, resolutions and favorable opinions of counsel to such Obligor, all in form, content and scope reasonably satisfactory to Administrative Agent.

(iii) Such Obligor shall, and shall cause each of its Subsidiaries to, take such action from time to time as shall reasonably be requested by Administrative Agent or the Majority Lenders to effectuate the purposes and objectives of this Agreement.

(iv) Without limiting the generality of the foregoing, each Obligor shall, and shall cause each Person that is required to be a Subsidiary Guarantor to, take such action from time to time (including executing and delivering such assignments, security agreements, control agreements and other instruments) as shall be reasonably requested by Administrative Agent or the Majority Lenders to create, in favor of the Administrative Agent, on behalf of the Secured Parties, perfected security interests and Liens in substantially all of the property of such Person (excluding, for the avoidance of doubt, any Excluded Assets (as defined in the Security Agreement)) as collateral security for the Obligations; *provided*, that any such security interest or Lien shall be subject to the relevant requirements of the Security Documents.

(v) At all times when an Intercreditor Agreement is in effect, such Obligor shall, and shall cause each of its Subsidiaries to, (A) notify the Administrative Agent of any Asset Sale or Involuntary Disposition (or series thereof) resulting in Asset Sale Net Proceeds in excess of $100,000 within five (5) Business Days of the consummation of such Asset Sale or Involuntary Disposition (or series thereof), as applicable, and (B) deposit all Asset Sale Net Proceeds constituting the proceeds of CRG Senior Collateral (as defined in the Intercreditor Agreement) and not applied to the Loans as a prepayment pursuant to **Section 3.03(b)** into the Designated CRG Account (as defined in the Intercreditor Agreement) until such time as such funds are used for a purpose not prohibited by this Agreement.

8.13 Termination of Non-Permitted Liens. In the event that Borrower or any of its Subsidiaries shall become aware or be notified by Administrative Agent or any Lender of the existence of any outstanding Lien against any Property of Borrower or any of its Subsidiaries, which Lien is not a Permitted Lien, the Obligors shall, and shall cause their Subsidiaries to, use its best efforts to promptly terminate or cause the termination of such Lien.

8.14 Intellectual Property. In the event that the Obligors acquire additional Obligor Intellectual Property during the term of this Agreement, then the provisions of this Agreement shall automatically apply thereto and any such Obligor Intellectual Property shall automatically constitute part of the Collateral under the Security Documents, without further action by any party, in each case from and after the date of such acquisition (except that any representations or warranties of any Obligor shall apply to any such Obligor Intellectual Property only from and after the date, if any, subsequent to such acquisition that such representations and warranties are brought down or made anew as provided herein). The Obligors shall provide notice thereof as set forth in **Section 8.02(b)** and shall execute and deliver to Administrative Agent Short-Form IP Security Agreements regarding all incremental applied-for or registered Intellectual Property within thirty (30) days of such notice.

8.15 Board Observation Rights. Borrower shall, concurrently with delivery to Borrower's Board, give a designated representative of the Lenders (who may change from time to time at the sole discretion of Administrative Agent upon written notice to Borrower) (the "***Representative***") copies of all notices, minutes, consents and other material that Borrower provides to its Board, and, at all times prior to the Board Observation Termination Date, shall

permit the Representative to attend all meetings of Borrower's Board as a non-voting observer, except that the Representative may be excluded from access to any material or meeting or portion thereof if Borrower's Board determines in good faith, upon advice of counsel, that such exclusion is reasonably necessary to preserve attorney-client privilege or to protect highly confidential non-financial trade secrets or non-financial proprietary information. At all times prior to the Board Observation Termination Date, upon reasonable notice and at a scheduled meeting of Borrower's Board or such other time, if any, as Borrower's Board may determine in its sole discretion, the Representative may address Borrower's Board with respect to a Lender's concerns regarding significant business issues facing Borrower and its Subsidiaries.

8.16 Post-Closing Items.

(a) The Obligors shall deliver, or cause to be delivered, to Administrative Agent, within forty-five (45) days of the Closing Date (or such later date as Administrative Agent shall agree in its sole discretion), a duly executed Landlord Consent for Borrower's leased premises located at 203 Fort Wade Road, Suite 150, Ponte Vedra, Florida 32081, which shall be in form and substance reasonably satisfactory to Administrative Agent.

(b) The Obligors shall deliver, or cause to be delivered, to Administrative Agent, within thirty (30) days of the Closing Date (or such later date as Administrative Agent shall agree in its sole discretion), insurance endorsements (i) naming the Administrative Agent as lender's loss payee and mortgagee on all property insurance policies of the Obligors, (ii) naming the administrative Agent as additional insured with on all liability policies of the Obligors and (iii) providing the Administrative Agent with thirty (30) days (or such lesser amount as Administrative Agent may agree) prior written notice before any such policy or policies shall be altered or canceled on all insurance policies of the Obligors.

(c) The Obligors shall deliver, or cause to be delivered, to Administrative Agent, within sixty (60) days of the Closing Date (or such later date as Administrative Agent shall agree in its sole discretion), a duly executed control agreement in favor of the Administrative Agent for the benefit of the Secured Parties for the Designated CRG Account (as such term is defined in the Intercreditor Agreement), which control agreement shall be in form and substance reasonably satisfactory to Administrative Agent.

SECTION 9
NEGATIVE COVENANTS

Each Obligor covenants and agrees with Administrative Agent and the Lenders that, until the Commitments have expired or been terminated and all Obligations (other than contingent indemnification obligations for which no claim has been made) have been paid in full in cash:

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

(a) the Obligations;

(b) Indebtedness existing on the Closing Date and set forth on **Part II** of **Schedule 7.13(a)** and Permitted Refinancings thereof;

(c) Permitted Priority Debt;

(d) accounts payable to trade creditors for goods and services and current operating liabilities (not the result of the borrowing of money) incurred in the ordinary course of Borrower's or such Subsidiary's business in accordance with customary terms and paid within the specified time, unless contested in good faith by appropriate proceedings and reserved for in accordance with GAAP;

(e) Indebtedness consisting of guarantees resulting from endorsement of negotiable instruments for collection by Borrower or any of its Subsidiaries in the ordinary course of business;

(f) intercompany Indebtedness permitted under **Section 9.05** (other than by reference to this **Section 9.01** (or any subclause hereof));

(g) normal course of business equipment financings (including Capital Lease Obligations); *provided*, that (i) if secured, the collateral therefor consists solely of the assets being financed, the products and proceeds thereof and books and records related thereto, and (ii) the aggregate outstanding principal amount of such Indebtedness does not exceed $500,000 (or the Equivalent Amount in other currencies) at any time;

(h) Indebtedness incurred in connection with corporate credit cards in an aggregate principal amount at any time outstanding not to exceed $500,000;

(i) cash management obligations and other Indebtedness in respect of netting services, overdraft protections and similar arrangements and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(j) Indebtedness consisting of unpaid insurance premiums owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the ordinary course of business;

(k) Guarantees permitted under **Section 9.05** (other than by reference to this **Section 9.01** (or any subclause hereof));

(l) the Permitted PPP Indebtedness; *provided*, that (i) the outstanding principal amount of such Indebtedness shall not exceed $1,787,880 at any time, (ii) such Indebtedness is at all times unsecured, (iii) neither Borrower nor any Subsidiary that is not an Obligor shall be an obligor with respect to such Indebtedness, (iv) the interest rate on such Indebtedness shall not exceed one percent (1.0%) per annum at any time and (v) none of the principal amount of such Indebtedness shall be ineligible for, or otherwise denied, forgiveness (it being understood and agreed that (x) if any principal amount of such Indebtedness is ineligible for, or otherwise denied, forgiveness, such principal amount shall no longer be permitted under this **clause (l)** but may be permitted under another clause of this **Section 9.01** and (y) a portion of such Indebtedness becoming ineligible for, or otherwise denied, forgiveness shall not cause the remainder of such Indebtedness (the portion that remains eligible for, or has been granted, forgiveness) to be no longer permitted under this **clause (l)**);

(m) unsecured Indebtedness not otherwise permitted by this **Section 9.01** in an aggregate amount not to exceed $500,000 outstanding at any time; and

(n) solely until the Initial Funding Date, term loan Indebtedness under the Existing Loan Agreement in an outstanding amount not to exceed $22,000,000.

9.02 Liens. Such Obligor shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or Revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created under the Security Documents securing the Obligations;

(b) any Lien on any property or asset of Borrower or any of its Subsidiaries existing on the Closing Date and set forth on **Part II** of **Schedule 7.13(b)** and Liens with respect to any Permitted Refinancing of the Indebtedness secured thereby; *provided*, that (i) no such Lien shall extend to any other property or asset of Borrower or any of its Subsidiaries (other than (x) after-acquired property that is affixed or incorporated into the property covered by such Lien and (y) proceeds and products thereof) and (ii) any such Lien shall secure only those obligations which it secures on the Closing Date and Permitted Refinancings thereof;

(c) Liens on the Permitted Priority Debt Collateral described in the definition of "Permitted Priority Debt";

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

(e) Liens imposed by law which were incurred in the ordinary course of business, including (but not limited to) carriers', landlords', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business and which (x) do not in the aggregate materially detract from the value of the Property subject thereto or materially impair the use thereof in the operations of the business of such Person or (y) are being contested in good faith by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the Property subject to such liens and for which adequate reserves have been made if required in accordance with GAAP;

(f) pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance or other similar social security legislation;

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

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

(i) with respect to any real Property, (i) such defects or encroachments as might be revealed by an up-to-date survey of such real Property; (ii) the reservations, limitations, provisos and conditions expressed in the original grant, deed or patent of such property by the original owner of such real Property pursuant to applicable Laws; and (iii) rights of expropriation, access or user or any similar right conferred or reserved by or in applicable Laws, which, in the aggregate for the foregoing **clauses (i)**, **(ii)** and **(iii)**, are not material, and which do not in any case materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of Borrower or any of its Subsidiaries;

(j) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and incurred in the ordinary course of business;

(k) any zoning or similar Law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property;

(l) non-exclusive licenses of Intellectual Property granted in the ordinary course of business and not interfering in any respect with the ordinary conduct of, or materially detracting from, the value of the business of the Borrower and its Subsidiaries;

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

(n) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business;

(o) Liens securing judgments that do not constitute an Event of Default under **Section 11.01(k)**;

(p) bankers liens, rights of setoff and similar Liens incurred on deposits, security accounts or other similar banking and securities intermediary arrangements, in each case, made in the ordinary course of business; and

(q) solely until the initial Borrowing hereunder on the Initial Funding Date, Liens in favor of Silicon Valley Bank under the Existing Loan Agreement;

provided, that no Lien otherwise permitted under any of the foregoing **Sections 9.02(b)** through **(p)** shall apply to any Material Intellectual Property.

9.03 Fundamental Changes and Acquisitions. Such Obligor shall not, and shall not permit any of its Subsidiaries to, (x) consummate any transaction of merger, amalgamation or consolidation, (y) liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or (z) consummate any Acquisition or otherwise acquire any business or substantially all the property from, or Equity Interests of, or be a party to any acquisition of, any Person, except:

(a) Investments permitted under **Section 9.05(e)** (other than by reference to this **Section 9.03** (or any subclause hereof));

(b) the merger, amalgamation or consolidation of any Subsidiary Guarantor with or into any other Obligor; *provided*, that in the case of a merger, amalgamation or consolidation with or into Borrower, Borrower shall be the surviving entity;

(c) the sale, lease, transfer or other disposition by any Subsidiary of any or all of its property (upon voluntary liquidation or otherwise) to (i) any Obligor or (ii) if such Subsidiary is not a Subsidiary Guarantor, another Subsidiary that is not a Subsidiary Guarantor;

(d) the sale, transfer or other disposition of the Equity Interests of any Subsidiary (i) to any Obligor or (ii) if the seller or other transferor is a Subsidiary that is not a Subsidiary Guarantor, to another Subsidiary that is not a Subsidiary Guarantor; and

(e) Permitted Acquisitions; *provided*, that the aggregate consideration for all such Acquisitions shall not exceed $10,000,000 during the term of this Agreement.

9.04 Lines of Business. Such Obligor shall not, and shall not permit any of its Subsidiaries to, engage to any material extent in any business other than the business engaged in on the Closing Date by Borrower and its Subsidiaries or a business reasonably related thereto.

9.05 Investments. Such Obligor shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make or own any Investment except:

(a) Investments outstanding on the Closing Date and identified in **Schedule 9.05**;

(b) operating deposit accounts with banks;

(c) extensions of credit in the nature of accounts receivable or notes receivable arising from the sales of goods or services in the ordinary course of business;

(d) Permitted Cash Equivalent Investments;

(e) Investments (i) by any Obligor in any other Obligor, (ii) by Subsidiaries that are not Obligors in other Subsidiaries that are not Obligors, (iii) by Subsidiaries that are not Obligors in Obligors and (iv) by Obligors in Subsidiaries that are not Subsidiary Guarantors so long as, in the case of this **clause (iv)**, the aggregate amount thereof does not exceed $250,000 in any fiscal year; *provided*, that notwithstanding anything herein to the contrary in this **clause (e)**, Borrower shall not be permitted to have any direct or indirect Subsidiaries that are not wholly-owned Subsidiaries (except to the extent resulting solely from directors' qualifying shares required pursuant to applicable Law);

(f) Hedging Agreements entered into in the ordinary course of Borrower's financial planning solely to hedge currency and interest rate risks (and not for speculative purposes) and in an aggregate notional amount for all such Hedging Agreements not in excess of $500,000 (or the Equivalent Amount in other currencies);

(g) Investments consisting of security deposits with utilities and other like Persons made in the ordinary course of business;

(h) Investments consisting of employee loans, travel advances and guarantees in accordance with Borrower's usual and customary practices with respect thereto (if permitted by applicable law) which in the aggregate shall not exceed $500,000 outstanding at any time (or the Equivalent Amount in other currencies);

(i) Investments received in connection with any Insolvency Proceedings in respect of any customers, suppliers or clients and in settlement of delinquent obligations of, and other disputes with, customers, suppliers or clients;

(j) Investments permitted under **Sections 9.01** or **9.03** (in each case, other than by reference to this **Section 9.05** (or any subclause hereof)); and

(k) other Investments not otherwise permitted by this **Section 9.05** in an aggregate amount not exceeding $1,000,000 outstanding at any time.

9.06 Restricted Payments. Such Obligor shall not, and shall not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(a) Borrower may declare and pay dividends with respect to its Equity Interests to the extent payable solely in additional shares of its Qualified Equity Interests;

(b) Borrower may make Restricted Payments pursuant to and in accordance with restricted stock agreements, stock option plans or other benefit plans for management, directors or employees of Borrower and its Subsidiaries, except that all such Restricted Payments made in cash in reliance on this **clause (b)** shall be limited to an aggregate amount of $500,000 in any fiscal year of Borrower;

(c) Borrower may make repurchases of Equity Interests deemed to occur upon the cash-less or net exercise or conversion of stock options, warrants or other convertible or exchangeable securities;

(d) Borrower may make repurchases of its Equity Interests deemed to occur upon the withholding of a portion of the Equity Interests granted or awarded to a current or former officer, director, employee or consultant to pay for the taxes payable by such person upon such grant or award (or upon vesting or exercise thereof);

(e) Borrower may pay cash in lieu of the issuance of its fractional shares of Equity Interests; and

(f) any Subsidiary may pay dividends to any Obligor.

9.07 Payments of Indebtedness. Such Obligor shall not, and shall not permit any of its Subsidiaries to, make any voluntary or optional payments in respect of any Indebtedness other than (a) payments of the Obligations, (b) payments of other Indebtedness (including, without limitation,

Permitted Priority Debt) permitted under the terms of any applicable subordination or intercreditor agreement to which the Administrative Agent is a party, (c) repayment of intercompany Indebtedness permitted in reliance upon **Section 9.01(f)**, (d) payment of Indebtedness permitted by **Section 9.01(b)** or **9.01(g)** solely to the extent made with the proceeds of additional issuances of Indebtedness permitted by **Section 9.01(b)** or **9.01(g)**, respectively, (e) payment of Indebtedness consisting of accounts payable permitted in reliance upon **Section 9.01(d)**, (f) payment of Indebtedness under corporate credit cards permitted in reliance upon **Section 9.01(h)** and (g) the refinancing of the outstanding term loan Indebtedness under the Existing Loan Agreement with the proceeds of the Borrowing made on the Initial Funding Date.

9.08 Change in Fiscal Year. Such Obligor shall not, and shall not permit any of its Subsidiaries to, change the last day of its fiscal year from that in effect on the Closing Date, except to change the fiscal year of a Subsidiary acquired in connection with an Acquisition to conform its fiscal year to that of Borrower.

9.09 Sales of Assets, Etc. Such Obligor shall not, and shall not permit any of its Subsidiaries to, sell, lease, license, transfer, or otherwise dispose of any of its Property (including accounts receivable and Equity Interests of Subsidiaries) to any Person in one transaction or series of transactions (any thereof, an "***Asset Sale***"), except:

(a) transfers of cash in the ordinary course of its business for equivalent value;

(b) sales of inventory in the ordinary course of its business on ordinary business terms;

(c) development and other collaborative arrangements where such arrangements provide for the licenses or disclosure of Patents, Trademarks, Copyrights or other Intellectual Property rights in the ordinary course of business and consistent with general market practices where such license requires periodic payments based on per unit sales of a product, service or procedure over a period of time; *provided*, that each such license does not effect a legal transfer of title to such Intellectual Property rights, that each such license must be a true license as opposed to a license that is a sales transaction in substance and that each such license does not materially restrict the ability of Borrower or any of its Subsidiaries to commercialize any material product of, or provide any material service or procedure by, Borrower or any of its Subsidiaries;

(d) transfers of Property by (i) Borrower or any Subsidiary Guarantor to any Obligor or (ii) any Subsidiary that is not an Obligor to any Obligor or any other Subsidiary that is not an Obligor;

(e) dispositions of any equipment that is surplus, obsolete or worn out or no longer used or useful in the business of the Borrower and its Subsidiaries;

(f) leases or subleases of real property or non-exclusive licenses or sublicenses of personal property (other than Intellectual Property) to third parties, in each case not interfering with the business of Borrower and its Subsidiaries;

(g) any transaction permitted under **Section 9.03** or **9.05** (in each case, other than by reference to this **Section 9.09** (or any subclause hereof)); and

(h) any other Asset Sale; *provided*, that (i) at least seventy-five percent (75.00%) of the consideration paid in connection with each such Asset Sale shall be cash proceeds paid contemporaneously with the consummation of such Asset Sale and (ii) the aggregate net book value of all of the Property sold or otherwise disposed of in such Asset Sale, together with the aggregate net book value of all of the Property sold or otherwise disposed of by Borrower and its Subsidiaries in all Asset Sales permitted under this **clause (h)**, shall not exceed $500,000 during the term of this Agreement.

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

(a) transactions solely between or among Obligors;

(b) any transaction permitted under **Section 9.01**, **9.05**, **9.06** or **9.09(a)** through **(g)** (in each case, other than by reference to this **Section 9.10** (or any subclause hereof));

(c) (i) customary compensation, benefits and indemnification of, and other employment arrangements with (including the payment of bonuses and other deferred compensation), directors, officers and employees of Borrower or any Subsidiary in the ordinary course of business and (ii) reasonable and customary expense reimbursements paid to members of the Board of Borrower or any Subsidiary;

(d) Issuances of Qualified Equity Interests of Borrower to Affiliates in exchange for cash; *provided*, that the terms thereof are no less favorable (including the amount of cash received by Borrower) to Borrower than those that would be obtained in a comparable arm's-length transaction with a Person not an Affiliate of Borrower; and

(e) other transactions (excluding non-cash transactions) involving aggregate consideration not in excess of $100,000 in any fiscal year of Borrower; *provided*, that such transactions are entered into in the ordinary course of business and are on terms and conditions substantially as favorable to such Obligor or Subsidiary, as applicable, as would be obtainable by it in a comparable arms-length transaction with a Person other than an Affiliate.

9.11 Restrictive Agreements. Such Obligor shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any Restrictive Agreement other than:

(a) restrictions and conditions imposed by law or by this Agreement and the other Loan Documents;

(b) Restrictive Agreements listed on **Schedule 7.15**;

(c) restrictions or conditions imposed by the definitive documentation governing Permitted Indebtedness permitted under **Sections 9.01(b)** and **9.01(g)**; *provided*, that such restrictions apply only to the property or assets securing such Permitted Indebtedness;

(d) customary provisions contained in leases, subleases, licenses, sublicenses and other contracts (other than relating to Intellectual Property) restricting the assignment, subletting or encumbrance thereof, customary net worth provisions or similar financial maintenance provisions contained therein and other customary provisions contained in such leases, subleases, licenses, sublicenses and other contracts entered into in the ordinary course of business; and

(e) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under **Section 9.09** pending the consummation of such sale.

9.12 Amendments to Material Agreements; Organizational Documents.

(a) Such Obligor shall not, and shall not permit any of its Subsidiaries to, (i) enter into any amendment to or modification of any Material Agreement that is materially adverse to (A) Borrower and its Subsidiaries, (B) the commercialization of any material product of, or material service or procedure provided by, Borrower or any of its Subsidiaries or (C) the rights or remedies of the Administrative Agent and the Lenders or (ii) terminate any Material Agreement (unless replaced with another agreement that, viewed as a whole, is on substantially similar or better terms for Borrower or such Subsidiary) without in each case the prior written consent of Administrative Agent (which consent shall not be unreasonably withheld, conditioned or delayed). Such Obligor shall not, and shall not permit any of its Subsidiaries to, enter into any amendment to or modification of its organizational documents in a manner that could be materially adverse to the interests, or rights or remedies, of Administrative Agent and the Lenders.

(b) Such Obligor shall not, and shall not permit any of its Subsidiaries to, enter into any amendment to or modification of any documentation governing or related to the Permitted Priority Debt in violation of the applicable Intercreditor Agreement.

9.13 Sales and Leasebacks. Such Obligor shall not, and shall not permit any of its Subsidiaries to, become liable, directly or indirectly, with respect to any lease, whether an operating lease or a capital lease, of any property (whether real, personal, or mixed), whether now owned or hereafter acquired, (a) which such Obligor or Subsidiary thereof has sold or transferred or is to sell or transfer to any other Person and (b) which such Obligor or Subsidiary thereof intends to use for substantially the same purposes as property which has been or is to be sold or transferred.

9.14 Hazardous Material. Such Obligor shall not, and shall not permit any of its Subsidiaries to, use, generate, manufacture, install, treat, release, store or dispose of any Hazardous Material, except in compliance with all applicable Environmental Laws or where the failure to comply could not reasonably be expected to result in a Material Adverse Change.

9.15 Accounting Changes. Such Obligor shall not, and shall not permit any of its Subsidiaries to, make any significant change in accounting treatment or reporting practices, except as required or permitted by GAAP.

9.16 Compliance with ERISA. No ERISA Affiliate shall cause or suffer to exist (a) any event that could result in the imposition of a Lien with respect to any Title IV Plan or Multiemployer Plan or (b) any other ERISA Event that would, in the aggregate, have a Material Adverse Effect. No Obligor shall, nor shall it permit any of its Subsidiaries to, cause or suffer to exist any event that could result in the imposition of a Lien with respect to any Benefit Plan.

9.17 Use of Proceeds. Such Obligor shall not, nor shall it permit its Subsidiaries to, use any part of the proceeds of the Loans, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board of Governors of the Federal Reserve System, including Regulation T, Regulation U and Regulation X.

9.18 Ownership of Subsidiaries. Notwithstanding any other provisions of this Agreement to the contrary, such Obligor shall not, and shall not permit any of its Subsidiaries to (a) permit any Person (other than any Obligor or any wholly-owned Subsidiary) to own any Equity Interests of any Subsidiary, except to qualify directors where required by applicable Law or to satisfy other requirements of applicable Law with respect to the ownership of Equity Interests of Foreign Subsidiaries, (b) permit such Obligor or any Subsidiary to issue or have outstanding any shares of Disqualified Equity Interests or (c) permit any Person (other than the Administrative Agent) to possess any Lien on the Equity Interests of such Obligor or any Subsidiary.

9.19 Designated CRG Account. At all times when an Intercreditor Agreement is in effect, such Obligor shall not close the Designated CRG Account (as defined in the Intercreditor Agreement) and, subject to **Section 8.16(c)**, shall not take any action, or omit to take any action, as a result of which the Administrative Agent shall cease to have a first-priority Lien on the Designated CRG Account (as defined in the Intercreditor Agreement).

SECTION 10
FINANCIAL COVENANTS

10.01 Minimum Liquidity. Obligors (in the aggregate) shall maintain at all times Liquidity in an amount which shall exceed the greater of (a) $3,000,000 and (b) to the extent Borrower has incurred Permitted Priority Debt, the minimum cash balance, if any, required of Borrower and its Subsidiaries by Borrower's Permitted Priority Debt creditors.

10.02 Minimum Revenue. Borrower and its Subsidiaries, on a consolidated basis, shall have annual Revenue from sales of the Procedure:

(a) during the twelve-month period beginning on January 1, 2021, of at least $50,000,000;

(b) during the twelve-month period beginning on January 1, 2022, of at least $60,000,000;

(c) during the twelve-month period beginning on January 1, 2023, of at least $70,000,000; and

(d) during the twelve-month period beginning on January 1, 2024 and during each twelve-month period beginning on each January 1 thereafter, of at least $80,000,000.

SECTION 11
EVENTS OF DEFAULT

11.01 Events of Default. Each of the following events shall constitute an **"*Event of Default*"**:

(a) Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) any Obligor shall fail to pay any Obligation (other than an amount referred to in **Section 11.01(a)**) when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of Borrower or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, shall: (i) prove to have been incorrect when made or deemed made to the extent that such representation or warranty contains any materiality or Material Adverse Effect qualifier; or (ii) prove to have been incorrect in any material respect when made or deemed made to the extent that such representation or warranty does not otherwise contain any materiality or Material Adverse Effect qualifier;

(d) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in **Section 8.02**, **8.03** (with respect to each Obligor's existence), **8.11**, **8.12**, **8.14**, **9** or **10**;

(e) any Obligor shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in **Section 11.01(a)**, **(b)** or **(d)**) or any other Loan Document, and, in the case of any failure that is capable of cure, if such failure shall continue unremedied for a period of thirty (30) or more days after the earlier of the date on which (i) a Responsible Officer of any Obligor obtains Knowledge of such failure and (ii) written notice of such failure shall have been given to the Borrower by Administrative Agent or any Lender;

(f) Borrower or any of its Subsidiaries shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable after giving effect to any applicable grace or cure period as originally provided by the terms of such Indebtedness;

(g) (i) any material breach of, or "event of default" or similar event by Borrower or any Subsidiary occurs under, any Material Agreement or any documentation governing Permitted Priority Debt or (ii) any event or condition occurs (A) that results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) that enables or permits (with or without the giving of notice, but subject to any applicable grace periods) the holder or holders of such Material Indebtedness or any trustee or agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; *provided*, that this **Section 11.01(g)** shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Material Indebtedness or the conversion of convertible Indebtedness permitted under this Agreement into Qualified Equity Interests of Borrower.

(h) Borrower or any Subsidiary:

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

(ii) commits an act of bankruptcy or makes an assignment of its property for the general benefit of its creditors or makes a proposal (or files a notice of its intention to do so);

(iii) institutes any proceeding seeking to adjudicate it an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts or any other relief, under any federal, provincial or foreign Law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors or at common law or in equity, or files an answer admitting the material allegations of a petition filed against it in any such proceeding;

(iv) applies for the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator, voluntary administrator, receiver and manager or other similar official for it or any substantial part of its property; or

(v) takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in this **Section 11.01(h)** or in **Section 11.01(i)**, or otherwise acts in furtherance thereof or fails to act in a timely and appropriate manner in defense thereof;

(vi) any petition is filed, application made or other proceeding instituted against or in respect of Borrower or any Subsidiary:

(i) seeking to adjudicate it an insolvent;

(i) seeking a receiving order against it;

(ii) seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), deed of company arrangement or composition of it or its debts or any other relief under any federal, provincial or foreign law now or hereafter in effect relating to bankruptcy, winding-up, insolvency, reorganization, receivership, plans of arrangement or relief or protection of debtors or at common law or in equity; or

(iii) seeking the entry of an order for relief or the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator, voluntary administrator, receiver and manager or other similar official for it or any substantial part of its property;

and, in the case of each of the foregoing, such petition, application or proceeding continues undismissed, or unstayed and in effect, for a period of thirty (30) days after the institution thereof; *provided*, that if an order, decree or judgment is granted or entered (whether or not entered or subject to appeal) against Borrower or such Subsidiary thereunder in the interim, such grace period will cease to apply; *provided*, *further*, that if Borrower or such Subsidiary files an answer admitting the material allegations of a petition filed against it in any such proceeding, such grace period will cease to apply;

(j) any other event occurs which, under the laws of any applicable jurisdiction, has an effect equivalent to any of the events referred to in either of **Section 11.01(h)** or **(i)**;

(k) one or more judgments or settlements for the payment of money in an aggregate amount in excess of $500,000 (or the Equivalent Amount in other currencies) shall be rendered against or entered into by Borrower, any Subsidiary or any combination thereof and (i) the same shall remain undismissed, unsatisfied or undischarged for a period of forty-five (45) consecutive days during which execution shall not be effectively stayed or (ii) any action shall be legally taken by a judgment or settlement creditor to attach or levy upon any assets of Borrower or any Subsidiary to enforce any such judgment or settlement;

(l) one or more fines or penalties issued by any Governmental Authority involving in the aggregate a liability in excess of $500,000 (or the Equivalent Amount in other currencies) shall be rendered against Borrower, any Subsidiary or any combination thereof and (i) the same shall not have been vacated, discharged, stayed or bonded, as applicable, pending appeal within for a period of sixty (60) consecutive days during which execution shall not be effectively stayed or (ii) any action shall be taken by any Governmental Authority to enforce any such fine or penalty;

(m) (i) an ERISA Event shall have occurred that, in the opinion of the Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of Borrower and its Subsidiaries in an aggregate amount exceeding (i) $500,000 in any year or (ii) $1,000,000 for all periods until repayment of all Obligations;

(n) a Change of Control shall have occurred;

(o) a Material Adverse Change shall have occurred;

(p) (i) any Lien created by any of the Security Documents shall at any time (except as expressly permitted by the terms of any Loan Document or due to the failure of Administrative Agent to take any action within its control required by Administrative Agent to maintain perfection) not constitute a valid and perfected Lien on the applicable Collateral in favor of the Administrative Agent, for the benefit of the Secured Parties, free and clear of all other Liens (other than Permitted Liens), (ii) except for expiration in accordance with its terms, any of the Security Documents or any Guarantee of any of the Obligations (including that contained in **Section 14**) shall for whatever reason cease to be in full force and effect, or (iii) any of the Security Documents or any Guarantee of any of the Obligations (including that contained in **Section 14**), or the enforceability thereof, shall be repudiated or contested by any Obligor; and

(q) any injunction, whether temporary or permanent, shall be rendered against Borrower or any Subsidiary that prevents Borrower or any Subsidiary from selling, manufacturing or providing any material product or performing the Procedure or its commercially available successors, or any of their other material and commercially available products, services or procedures in the United States for more than sixty (60) consecutive calendar days.

11.02 Remedies.

(a) Upon the occurrence of any Event of Default, then, and in every such event (other than an Event of Default described in **Section 11.01(h)**, **(i)** or **(j)**), and at any time thereafter during the continuance of such event, the Majority Lenders may, by notice to Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable) (an "***acceleration***"), and thereupon the principal of the Loans so declared to be due and payable, together with accrued

interest thereon and all fees and other Obligations shall become due and payable immediately and the Obligors shall immediately pay all Obligations, including the Back-End Facility Fee and an Acceleration Premium as calculated below, all without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(b) Upon the occurrence of any Event of Default described in **Section 11.01(h)**, **(i)** or **(j)**, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other Obligations, shall automatically become due and payable immediately (an "***acceleration***" and, together with any acceleration defined in **Section 11.02(a)**, each, an "***Acceleration***") and the Obligors shall immediately pay all Obligations, including the Back-End Facility Fee and an Acceleration Premium as calculated below, all without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Obligor.

(c) **Acceleration Premium Calculation**. The applicable "***Acceleration Premium***" shall be an amount calculated as follows:

(i) If the date of Acceleration occurs:

(A) on or prior to the date that is one (1) year after the applicable Borrowing Date, the Acceleration Premium shall be an amount equal to twenty percent (20%) of the aggregate outstanding principal amount of the Loans subject to the Acceleration;

(B) after the date that is one (1) year after the applicable Borrowing Date, and on or prior to the date that is two (2) years after the applicable Borrowing Date, the Acceleration Premium shall be an amount equal to eleven percent (11%) of the aggregate outstanding principal amount of the Loans subject to the Acceleration;

(C) after the date that is two (2) years after the applicable Borrowing Date, the Acceleration Premium shall be an amount equal to zero percent (0%) of the aggregate outstanding principal amount of the Loans subject to the Acceleration.

(ii) To determine the aggregate outstanding principal amount of the Loans subject to the Acceleration and the applicable Borrowing Date, as of any date of Acceleration, for purposes of this **Section 11.02(c)**:

(A) if, as of such date of Acceleration, Borrower shall have made only one Borrowing (excluding Borrowings of PIK Loans), the Acceleration Premium shall be determined by reference to the Initial Funding Date; and

(B) if, as of such date of Acceleration, Borrower shall have made more than one Borrowing (excluding Borrowings of PIK Loans), then the Acceleration Premium shall equal the sum of multiple Acceleration Premiums calculated with respect to the Loans of each such non-PIK Loan Borrowing included in such Acceleration, each of which Acceleration Premiums shall be calculated based on solely the aggregate outstanding principal amount of the Loans borrowed in such Borrowing (and PIK Loans subsequently borrowed in respect of interest payments thereon) and by reference to the applicable Borrowing Date for such Borrowing. In the case that the amount of Loans subject to Acceleration does not equal the full principal amount of Loans outstanding, the amount of such payment shall be allocated to Loans made in the various Borrowings (and PIK Loans in respect thereof) in the inverse order in which such Borrowings were made.

(d) For the avoidance of doubt, the Acceleration Premium and the Back-End Facility Fee that are payable upon Acceleration of the Loans shall be due and payable at any time the Loans become due and payable prior to the Stated Maturity Date for any reason whether due to Acceleration pursuant to the terms of this Agreement (in which case it shall be due immediately, upon the giving of notice to Borrower in accordance with **Section 11.02(a)**, or automatically, in accordance with **Section 11.02(b)**), whether by operation of law or otherwise (including where bankruptcy filings or the exercise of any bankruptcy right or power, whether in any plan of reorganization or otherwise, results or would result in a payment, discharge, modification or other treatment of the Loans or Loan Documents that would otherwise evade, avoid, or otherwise disappoint the expectations of Lenders in receiving the full benefit of their bargained-for Acceleration Premium and their bargained-for Back-End Facility Fee as provided herein and in the Fee Letter). The Obligors and Lenders acknowledge and agree that any Acceleration Premium and the Back-End Facility Fee due and payable in accordance with the Loan Documents shall not constitute unmatured interest, whether under section 502(b)(2) of the Bankruptcy Code or otherwise, but instead is reasonably calculated to ensure that the Lenders receive the benefit of their bargain under the terms of this Agreement, whether in a bankruptcy case or otherwise.

(e) Each Obligor acknowledges and agrees that, prior to executing this Agreement, it has had the opportunity to review, evaluate and negotiate the Acceleration Premium calculation and the Back-End Facility Fee with its advisors and acknowledges that the Acceleration Premium is a reasonable approximation of Lenders' liquidated damages upon Acceleration and, accordingly, each Obligor will not contest or object to the reasonableness thereof. Each Obligor understands and acknowledges that Lenders have entered into this Agreement in reliance upon the Acceleration

Premium and the Back-End Facility Fee. Each Obligor acknowledges and agrees that the Lenders shall be entitled to recover the full amount of the Obligations, including the Acceleration Premium and the Back-End Facility Fee in each and every circumstance in which such amount is due pursuant to or in connection with this Agreement and the Fee Letter, including in the case of any Obligor's bankruptcy filing, so that the Lenders shall receive the benefit of their bargain hereunder and otherwise receive full recovery of the agreed-upon return under every possible circumstance, and Borrower hereby waives any defense to payment, whether such defense may be based in public policy, ambiguity, or otherwise. Each Obligor further acknowledges and agrees, and waives any argument to the contrary, that payment of such amounts does not constitute a penalty or an otherwise unenforceable or invalid obligation. Any damages that the Lenders may suffer or incur resulting from or arising in connection with any breach by Borrower shall constitute secured obligations owing to the Lenders.

(f) For the avoidance of doubt, in the event of any Acceleration, interest pursuant to **Sections 3.02(a)** and **(b)** shall accrue on all Obligations, including the Back-End Facility Fee and any Acceleration Premium, from and after the date such Obligations are due and payable until paid in full.

(g) After the exercise of remedies provided for in this **Section 11.02** (or after the Loans have automatically become immediately due and payable as set forth in **Section 11.02**), any amounts received by any Lender or Administrative Agent on account of the Obligations shall be applied by Administrative Agent in its sole discretion and then, to the extent any proceeds remain, to Borrower or other parties lawfully entitled thereto.

SECTION 12
ADMINISTRATIVE AGENT

12.01 Appointment and Duties. (a) Appointment of Administrative Agent. Each Lender hereby irrevocably appoints CRG Servicing (together with any successor Administrative Agent pursuant to **Section 12.09**) as Administrative Agent hereunder and authorizes Administrative Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Obligor or any of its Subsidiaries, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent under such Loan Documents, (iii) act as agent of such Lender for purposes of acquiring, holding, enforcing and perfecting all Liens granted by the Obligors on the Collateral to secure any of the Obligations and (iv) exercise such powers as are reasonably incidental thereto.

(b) **Duties as Collateral and Disbursing Agent**. Without limiting the generality of **Section 12.01(a)**, Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (i) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in **Section 11.01(h)**, **(i)** or (**j)** or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to Administrative Agent, (ii) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Obligation in any proceeding described in **Section 11.01(h)**, **(i)** or **(j)** or any other bankruptcy, insolvency or similar

proceeding (but not to vote, consent or otherwise act on behalf of such Secured Party), (iii) act as collateral agent for each Secured Party for purposes of acquiring, holding, enforcing and perfecting all Liens created by the Loan Documents and all other purposes stated therein, (iv) manage, supervise and otherwise deal with the Collateral, (v) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (vi) except as may be otherwise specified in any Loan Document, exercise all remedies given to Administrative Agent and the other Secured Parties with respect to the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise,(vii) enter into Intercreditor Agreements with respect to Permitted Priority Debt or any other subordination agreement or intercreditor agreement with respect to Indebtedness of an Obligor that is permitted hereunder, (viii) enter into non-disturbance agreements and similar agreements and (ix) execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; *provided*, *however*, that Administrative Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Administrative Agent and the Secured Parties for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by an Obligor with, and cash and Permitted Cash Equivalent Investments held by, such Lender, and may further authorize and direct any Lender to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Administrative Agent, and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) **Limited Duties**. Under the Loan Documents, Administrative Agent (i) is acting solely on behalf of the Lenders (except to the limited extent provided in **Section 12.11**), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "***Administrative Agent***," the terms "agent," "administrative agent" and "collateral agent" and similar terms in any Loan Document to refer to Administrative Agent, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Secured Party and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Lender hereby waives and agrees not to assert any claim against Administrative Agent based on the roles, duties and legal relationships expressly disclaimed in the foregoing **clauses (i)** through **(iii)**.

12.02 Binding Effect. Each Lender agrees that (a) any action taken by Administrative Agent or the Majority Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (b) any action taken by Administrative Agent in reliance upon the instructions of the Majority Lenders (or, where so required, such greater proportion) and (c) the exercise by Administrative Agent or the Majority Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, in each case, shall be authorized and binding upon all of the Secured Parties.

12.03 Use of Discretion.

(a) **No Action without Instructions**. Administrative Agent shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Majority Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) **Right Not to Follow Certain Instructions**. Notwithstanding **Section 12.03(a)**, Administrative Agent shall not be required to take, or to omit to take, any action (i) unless, upon demand, Administrative Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to Administrative Agent, any other Secured Party) against all liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against Administrative Agent or any Related Person thereof or (ii) that is, in the opinion of Administrative Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

12.04 Delegation of Rights and Duties. Administrative Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through or to any trustee, co-agent, sub-agent, employee, attorney-in-fact and any other Person (including any other Secured Party). Any such Person shall benefit from this **Section 12** to the extent provided by Administrative Agent. Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

12.05 Reliance and Liability.

(a) Administrative Agent may, without incurring any liability hereunder, (i) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, Borrower or any Subsidiary) and (ii) rely and act upon any document and information and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) None of Administrative Agent and its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Lender and each Obligor hereby waives and shall not assert any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence or willful misconduct of Administrative Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, Administrative Agent:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Majority Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Administrative Agent, when acting on behalf of Administrative Agent);

(ii) shall not be responsible to any Secured Party for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Secured Party for any statement, document, information, representation or warranty made or furnished by or on behalf of any Related Person, in or in connection with any Loan Document or any transaction contemplated therein, whether or not transmitted by Administrative Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Administrative Agent in connection with the Loan Documents; and

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Obligor or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from Borrower or any Lender describing such Default or Event of Default clearly labeled "notice of default" (in which case Administrative Agent shall promptly give notice of such receipt to all Lenders);

and, for each of the items set forth in **clauses (i)** through **(iv)** above, each Lender and each Obligor hereby waives and agrees not to assert any right, claim or cause of action it might have against Administrative Agent based thereon.

12.06 Administrative Agent Individually. Administrative Agent and its Affiliates may make loans and other extensions of credit to, acquire Equity Interests of, or engage in any kind of business with, any Obligor or Affiliate thereof as though it were not acting Administrative Agent and may receive separate fees and other payments therefor. To the extent Administrative Agent or any of its Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "***Lender***," "***Majority Lender***," and any similar terms shall, except where otherwise expressly provided in any Loan Document, include Administrative Agent or such Affiliate, as the case may be, in its individual capacity as Lender or as one of the Majority Lenders, respectively.

12.07 Lender Credit Decision. Each Lender acknowledges that it shall, independently and without reliance upon Administrative Agent, any Lender or any of their Related Persons or upon any document solely or in part because such document was transmitted by Administrative Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of Borrower and each of its Subsidiaries and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate.

12.08 Expenses; Indemnities.

(a) Each Lender agrees to reimburse Administrative Agent and each of its Related Persons (to the extent not reimbursed by any Obligor) promptly upon demand for such Lender's Proportionate Share of any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Obligor) that may be incurred by Administrative Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding or otherwise) of, or legal advice in respect of its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify Administrative Agent and each of its Related Persons (to the extent not reimbursed by any Obligor), from and against such Lender's aggregate Proportionate Share of the liabilities (including Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to on or for the account of any Lender) that may be imposed on, incurred by or asserted against Administrative Agent or any of its Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any related document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Administrative Agent or any of its Related Persons under or with respect to any of the foregoing; *provided*, *however*, that no Lender shall be liable to Administrative Agent or any of its Related Persons to the extent such liability is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Administrative Agent's or such Related Person's gross negligence or willful misconduct.

12.09 Resignation of Administrative Agent.

(a) Administrative Agent may resign at any time by delivering notice of such resignation to the Lenders and Borrower, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective. If Administrative Agent delivers any such notice, the Majority Lenders shall have the right to appoint a successor Administrative Agent. If, within thirty (30) days after the retiring Administrative Agent having given notice of resignation, no successor Administrative Agent has been appointed by the Majority Lenders that has accepted such appointment, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent from among the Lenders. Each appointment under this **Section 12.09(a)** shall be subject to the prior consent of Borrower, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Lenders shall assume and perform all of the duties of Administrative Agent until a successor Administrative Agent shall have accepted a valid appointment hereunder, (iii) the retiring Administrative Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Administrative Agent was, or because such Administrative Agent had been, validly acting as

Administrative Agent under the Loan Documents and (iv) subject to its rights under **Section 12.03**, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Administrative Agent, a successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent under the Loan Documents.

12.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs Administrative Agent to release (or, in the case of **Section 12.10(b)(ii)**, release or subordinate) the following:

(a) any Subsidiary Guarantor from its Guarantee of the Obligations if all of the Equity Interests in such Subsidiary owned by any Obligor or any of its Subsidiaries are disposed of in an Asset Sale permitted under the Loan Documents (including pursuant to a waiver or consent), to the extent that, after giving effect to such Asset Sale, such Subsidiary would not be required to guarantee any Obligations pursuant to **Section 8.12**; and

(b) any Lien held by Administrative Agent for the benefit of the Secured Parties against (i) any Collateral that is disposed of by an Obligor in an Asset Sale permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to **Section 8.12** after giving effect to such Asset Sale have been granted, (ii) any property subject to a Lien described in **Section 9.02(d)** and (iii) all of the Collateral and all Obligors, upon (A) termination of the aggregate Commitments and (B) payment and satisfaction in full of all Loans and all other Obligations (other than contingent indemnification obligations for which no claim has been made) that Administrative Agent has been notified in writing are then due and payable.

Each Lender hereby directs Administrative Agent, and Administrative Agent hereby agrees, upon receipt of reasonable advance notice from Borrower, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this **Section 12.10**.

12.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender as long as, by accepting such benefits, such Secured Party agrees, as among Administrative Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Administrative Agent, shall confirm such agreement in a writing in form and substance acceptable to Administrative Agent) this **Section 12** and the decisions and actions of Administrative Agent and the Majority Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders) to the same extent a Lender is bound; *provided*, *however*, that notwithstanding the foregoing, (a) such Secured Party shall be bound by **Section 12.08** only to the extent of liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of Proportionate Share or similar concept, (b) each of Administrative Agent and each Lender shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the

Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Obligation and (c) such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

SECTION 13
MISCELLANEOUS

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

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

13.03 Expenses, Indemnification, Etc.

(a) **Expenses**. The Obligors agree to pay or reimburse (i) Administrative Agent and the Lenders for all of their reasonable and documented out-of-pocket costs and expenses (including the reasonable fees and expenses of Moore & Van Allen PLLC, as counsel to Administrative Agent and the Lenders, and any sales, goods and services or other similar Taxes applicable thereto, and printing, reproduction, document delivery, communication and travel costs) in connection with (x) the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents and the making of the Loans (exclusive of post-closing costs), (y) post-closing costs and (z) the negotiation or preparation of any modification, supplement or waiver of any of the terms of this Agreement or any of the other Loan Documents (whether or not consummated) and (ii) Administrative Agent and the Lenders for all of their out-of-pocket costs and expenses (including the fees and expenses of legal counsel) in connection with any enforcement or collection proceedings resulting from the occurrence of an Event of Default; *provided*, *however*, that Borrower shall not be required to pay or reimburse any amounts pursuant to **Section 13.03(a)(i)(x)** in excess of the Expense Cap.

(b) **Indemnification**. The Obligors hereby indemnify Administrative Agent, each Lender, their respective Affiliates, and their respective directors, officers, employees, attorneys, agents, advisors and controlling parties (each, an "***Indemnified Party***") from and against, and

agrees to hold them harmless against, any and all Claims and Losses of any kind (including reasonable fees and disbursements of counsel), joint or several, that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or relating to this Agreement or any of the other Loan Documents or the transactions contemplated hereby or thereby or any use made or proposed to be made with the proceeds of the Loans, and any claim, investigation, litigation or proceeding or the preparation of any defense with respect thereto arising out of or in connection with or relating to any of the foregoing, whether or not any Indemnified Party is a party to an actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based in contract, tort or any other theory, and whether or not such investigation, litigation or proceeding is brought by Borrower, any of its shareholders or creditors, and whether or not the conditions precedent set forth in **Section 6** are satisfied or the other transactions contemplated by this Agreement are consummated, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNIFIED PARTY**, except to the extent such Claim or Loss is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct. No Obligor shall assert any claim against any Indemnified Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the transactions contemplated hereby or thereby or the actual or proposed use of the proceeds of the Loans.

(c) **Waiver of Consequential Damages**. Borrower, its Subsidiaries and Affiliates and their respective directors, officers, employees, attorneys, agents, advisors and controlling parties are each sometimes referred to in this Agreement as a "***Borrower Party***." No Lender shall assert any claim against any Borrower Party, on any theory of liability, for consequential, indirect, special or punitive damages arising out of or otherwise relating to this Agreement or any of the other Loan Documents or any of the transactions contemplated hereby or thereby or the actual or proposed use of the proceeds of the Loans; *provided*, that the foregoing shall in no event limit the indemnification obligations of the Obligors under **clause (b)** above to the extent such special, indirect, consequential or punitive damages are included in any claim in connection with which such Indemnified Party is otherwise entitled to indemnification thereunder.

13.04 Amendments, Etc. Except as otherwise expressly *provided* in this Agreement or in any other Loan Document, any provision of this Agreement or any other Loan Document may be modified or supplemented only by an instrument in writing signed by Borrower and the Majority Lenders (or Administrative Agent on behalf of such Majority Lenders); *provided*, *however*, that:

(a) the consent of all of the Lenders shall be required to:

(i) amend, modify, discharge, terminate or waive any of the terms of this Agreement or any other Loan Document if such amendment, modification, discharge, termination or waiver would increase the amount of the Loans or the Commitments, reduce the fees payable hereunder, reduce interest rates or other amounts payable with respect to the Loans (including any principal amortization payment, Prepayment Premium or Acceleration Premium), extend any date fixed for payment of principal, interest or other amounts payable relating to the Loans (including with respect to Prepayment Premiums or Acceleration Premiums) or extend any date set forth in **Section 6** or the definition of "***Commitment Period***";

(ii) amend the provisions of **Section 6**;

(iii) amend, modify, discharge, terminate or waive any Security Document if the effect is to release all or substantially all of the Collateral subject thereto other than pursuant to the terms hereof or thereof;

(iv) amend **Section 4.05** in a manner that would alter the *pro rata* sharing of payments required thereby;

(v) release Borrower or, except in connection with a merger or consolidation permitted under **Section 9.03** or an Asset Sale permitted under **Section 9.09**, all or substantially all of the Subsidiary Guarantors without the written consent of each Lender, except to the extent the release of any Subsidiary Guarantor is permitted pursuant to **Section 12.10** (in which case such release may be made by Administrative Agent acting alone); or

(vi) amend this **Section 13.04** or the definition of "***Majority Lenders***"; and

(b) no amendment, waiver or consent shall affect the rights or duties under any Loan Document of, or any payment to, Administrative Agent (or otherwise modify any provision of **Section 12** or the application thereof) unless in writing and signed by Administrative Agent in addition to any signature otherwise required.

Notwithstanding anything to the contrary herein, a Defaulting Lender shall not have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

13.05 Successors and Assigns.

(a) **General**. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or under any of the other Loan Documents without the prior written consent of the Lenders. Any of the Lenders may assign or otherwise transfer any of their rights or obligations hereunder or under any of the other Loan Documents (i) by way of assignment in accordance with the provisions of **Section 13.05(b)**, (ii) by way of participation in accordance with the provisions of **Section 13.05(e)** or (iii) by way of pledge or assignment of a security interest subject to the restrictions of **Section 13.05(g)**. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in **Section 13.05(e)** and, to the extent expressly contemplated hereby, the Indemnified Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) **Assignments by Lenders**. Any of the Lenders may at any time assign to one or more other Lenders, Affiliates of a Lender or Eligible Transferees (or, if an Event of Default has occurred and is continuing, to any Person) all or a portion of their rights and obligations under this Agreement (including all or a portion of the Commitment and the Loans at the time owing to it); *provided*, *however*, that no such assignment shall be made to Borrower, an Affiliate of Borrower, or any employees or directors of Borrower or any of its Subsidiaries at any time. Subject to the recording thereof by Administrative Agent pursuant to **Section 13.05(d)**, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of the Lenders under this Agreement and the other Loan Documents, and correspondingly the assigning Lender shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of a Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) and the other Loan Documents but shall continue to be entitled to the benefits of **Section 5** and **Section 13.03**. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this **Section 13.05(b)** shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with **Section 13.05(e)**.

(c) **Amendments to Loan Documents**. Each of Administrative Agent, the Lenders and the Obligors agrees to enter into such amendments to the Loan Documents, and such additional Security Documents and other instruments and agreements, in each case in form and substance reasonably acceptable to Administrative Agent, the Lenders and the Obligors, as shall reasonably be necessary to implement and give effect to any assignment made under this **Section 13.05**.

(d) **Register**. Administrative Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain at one of its offices a register for the recordation of the name and address of any assignee of the Lenders and the Commitment and outstanding principal amount of the Loans owing thereto (the "***Register***"). The entries in the Register shall be conclusive, absent manifest error, and the Obligors shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as the "***Lender***" hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Obligors, at any reasonable time and from time to time upon reasonable prior notice. This **Section 13.05** shall be construed so that the Obligations are at all times maintained in **"**registered form**"** within the meaning of Sections 871(h)(2) and 881(c)(2) of the Code and any related regulations (and any other relevant or successor provisions of the Code or such regulations).

(e) **Participations**. Any of the Lenders may at any time, without the consent of, or notice to, Borrower, sell participations to any Person (other than a natural person, Borrower or any of Borrower's Affiliates or Subsidiaries) (each, a "***Participant***") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of the Commitment and/or the Loans owing to it); *provided*, that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Obligors shall continue to deal solely and directly with the Lenders in connection therewith.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; *provided*, that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that would (i) increase or extend the term of such Lender's Commitment, (ii) extend the date fixed for the payment of principal of or interest on the Loans or any portion of any fee hereunder payable to the Participant, (iii) reduce the amount of any such payment of principal, or (iv) reduce the rate at which interest is payable thereon to a level below the rate at which the Participant is entitled to receive such interest. Subject to **Section 13.05(f)**, the Obligors agree that each Participant shall be entitled to the benefits of Section 5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.05(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 4.04(a) as though it were the Lender.

(f) **Limitations on Rights of Participants**. A Participant shall not be entitled to receive any greater payment under **Section 5.01** or **5.03** than a Lender would have been entitled to receive with respect to the participation sold to such Participant, unless either (x) the sale of the participation to such Participant is made with Borrower's prior written consent or (y) such entitlement to receive a greater payment results from the adoption of or any change in any Requirement of Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "***Participant Register***"); *provided*, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitment, loan, letter of credit or other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letters of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(g) **Certain Pledges**. The Lenders may at any time pledge or assign a security interest in all or any portion of their rights under this Agreement and any other Loan Document to secure obligations of the Lenders, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided*, that no such pledge or assignment shall release the Lenders from any of their obligations hereunder or substitute any such pledgee or assignee for the Lenders as a party hereto.

13.06 Survival. The obligations of the Obligors under **Sections 5.01, 5.02, 5.03, 13.03, 13.05, 13.09, 13.10, 13.11, 13.12, 13.13, 13.14, 13.21** and **Section 14** (solely to the extent

guaranteeing any of the obligations under the foregoing Sections) shall survive the repayment of the Obligations and the termination of the Commitment and, in the case of the Lenders' assignment of any interest in the Commitment or the Loans hereunder, shall survive, in the case of any event or circumstance that occurred prior to the effective date of such assignment, the making of such assignment, notwithstanding that the Lenders may cease to be "***Lenders***" hereunder. In addition, each representation and warranty made, or deemed to be made by a Notice of Borrowing, herein or pursuant hereto shall survive the making of such representation and warranty.

13.07 Captions. The table of contents and captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

13.08 Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

13.09 Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed in accordance with, the law of the State of New York, without regard to principles of conflicts of laws that would result in the application of the laws of any other jurisdiction; *provided*, that Section 5-1401 of the New York General Obligations Law shall apply.

13.10 Jurisdiction, Service of Process and Venue.

(a) **Submission to Jurisdiction**. Each Obligor agrees that any suit, action or proceeding with respect to this Agreement or any other Loan Document to which it is a party or any judgment entered by any court in respect thereof may be brought initially in the federal or state courts in Houston, Texas or in the courts of its own corporate domicile and irrevocably submits to the non-exclusive jurisdiction of each such court for the purpose of any such suit, action, proceeding or judgment. This **Section 13.10(a)** is for the benefit of Administrative Agent and the Lenders only and, as a result, neither Administrative Agent nor any Lender shall be prevented from taking proceedings in any other courts with jurisdiction. To the extent allowed by applicable Laws, Administrative Agent and the Lenders may take concurrent proceedings in any number of jurisdictions.

(b) **Alternative Process**. Nothing herein shall in any way be deemed to limit the ability of Administrative Agent or the Lenders to serve any such process or summonses in any other manner permitted by applicable law.

(c) **Waiver of Venue, Etc.** Each Obligor irrevocably waives to the fullest extent permitted by law any objection that it may now or hereafter have to the laying of the venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document and hereby further irrevocably waives to the fullest extent permitted by law any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. A final judgment (in respect of which time for all appeals has elapsed) in any such suit, action or proceeding shall be conclusive and may be enforced in any court to the jurisdiction of which such Obligor is or may be subject, by suit upon judgment.

13.11 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

13.12 Waiver of Immunity. To the extent that any Obligor may be or become entitled to claim for itself or its Property or revenues any immunity on the ground of sovereignty or the like from suit, court jurisdiction, attachment prior to judgment, attachment in aid of execution of a judgment or execution of a judgment, and to the extent that in any such jurisdiction there may be attributed such an immunity (whether or not claimed), such Obligor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity with respect to its obligations under this Agreement and the other Loan Documents.

13.13 Entire Agreement. This Agreement and the other Loan Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. EACH OBLIGOR ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IN DECIDING TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS OR IN TAKING OR NOT TAKING ANY ACTION HEREUNDER OR THEREUNDER, IT HAS NOT RELIED, AND WILL NOT RELY, ON ANY STATEMENT, REPRESENTATION, WARRANTY, COVENANT, AGREEMENT OR UNDERSTANDING, WHETHER WRITTEN OR ORAL, OF OR WITH ADMINISTRATIVE AGENT OR THE LENDERS OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

13.14 Severability. If any provision hereof is found by a court to be invalid or unenforceable, to the fullest extent permitted by applicable law the parties agree that such invalidity or unenforceability shall not impair the validity or enforceability of any other provision hereof.

13.15 No Fiduciary Relationship. Each Obligor acknowledges that Administrative Agent and the Lenders have no fiduciary relationship with, or fiduciary duty to, Borrower or any other Obligor arising out of or in connection with this Agreement or the other Loan Documents, and the relationship between the Lenders and the Obligor is solely that of creditor and debtor. This Agreement and the other Loan Documents do not create a joint venture among the parties.

13.16 Confidentiality. Administrative Agent and the Lenders agree to maintain the confidentiality of the Confidential Information (as defined in the Non-Disclosure Agreement) in accordance with the terms of that certain confidentiality agreement dated May 1, 2020 between Borrower and CR Group (the "***Non-Disclosure Agreement***"). Any new Lender that becomes party to this Agreement hereby agrees to be bound by the terms of the Non-Disclosure Agreement. The parties to this Agreement shall prepare a mutually agreeable press release announcing the completion of this transaction on or after the Closing Date.

13.17 USA PATRIOT ACT. Administrative Agent and the Lenders hereby notify the Obligors that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56

(signed into law October 26, 2001)) (the "***Act***") or any Anti-Money Laundering Laws, they are required to obtain, verify and record information that identifies such Obligor, which information includes the name and address of such Obligor and other information that will allow such Lender to identify such Obligor in accordance with the Act or other Anti-Money Laundering Laws.

13.18 Maximum Rate of Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (in each case, the "***Maximum Rate***"). If the Lenders shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans, and not to the payment of interest, or, if the excessive interest exceeds such unpaid principal, the amount exceeding the unpaid balance shall be refunded to the applicable Obligor. In determining whether the interest contracted for, charged, or received by the Lenders exceeds the Maximum Rate, the Lenders may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Indebtedness and other obligations of any Obligor hereunder, or (d) allocate interest between portions of such Indebtedness and other obligations under the Loan Documents to the end that no such portion shall bear interest at a rate greater than that permitted by applicable Law.

13.19 Redemption Price.

(a) For the avoidance of doubt, the Prepayment Premium (as a component of the Redemption Price) and Back-End Facility Fee shall be due and payable whenever so stated in this Agreement (and the Fee Letter, as applicable), or by any applicable operation of law, regardless of the circumstances causing any related payment prior to the Stated Maturity Date (other than an Acceleration, in which case the Acceleration Premium instead shall be payable, or if mandated by a Requirement of Law as described in **Section 5.02**).

(b) The Obligors and the Lenders acknowledge and agree that any Prepayment Premium due and payable in accordance with the Loan Documents shall not constitute unmatured interest, whether under section 502(b)(2) of the Bankruptcy Code or otherwise, but instead is reasonably calculated to ensure that the Lenders receive the benefit of their bargain under the terms of this Agreement.

(c) Each Obligor acknowledges and agrees that, prior to executing this Agreement, it has had the opportunity to review, evaluate and negotiate the Prepayment Premium calculation with its advisors and acknowledges that the Prepayment Premium is a reasonable approximation of the Lenders' liquidated damages upon repayment on any Redemption Date prior to the Stated Maturity Date and, accordingly, each Obligor will not contest or object to the reasonableness thereof. Each Obligor understands and acknowledges that the Lenders have entered into this Agreement in reliance upon the Prepayment Premium. Each Obligor acknowledges and agrees that the Lenders shall be entitled to recover the full amount of the Obligations, including the Prepayment Premium in each and every circumstance in which such amount is due pursuant to or in connection with this Agreement, so that the Lenders shall receive the benefit of their bargain hereunder and otherwise receive full recovery of the agreed-upon return under every possible

circumstance, and the Obligors hereby waive any defense to payment, whether such defense may be based in public policy, ambiguity, or otherwise. Each Obligor further acknowledges and agrees, and waives any argument to the contrary, that payment of such amounts does not constitute a penalty or an otherwise unenforceable or invalid obligation. Any damages that the Lenders may suffer or incur resulting from or arising in connection with any breach by any Obligor shall constitute secured obligations owing to the Lenders.

13.20 Waiver of Marshaling. WITHOUT LIMITING THE FOREGOING IN ANY WAY, EACH OBLIGOR HEREBY IRREVOCABLY WAIVES AND RELEASES, TO THE EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS IT MAY HAVE AT ANY TIME (WHETHER ARISING DIRECTLY OR INDIRECTLY, BY OPERATION OF LAW, CONTRACT OR OTHERWISE) TO REQUIRE THE MARSHALING OF ANY ASSETS OF ANY OBLIGOR, WHICH RIGHT OF MARSHALING MIGHT OTHERWISE ARISE FROM ANY PAYMENTS MADE OR OBLIGATIONS PERFORMED.

13.21 Tax Treatment. The parties hereto agree (a) that any contingency associated with the Loans is described in Treasury Regulations Section 1.1272-1(c) and/or Treasury Regulations Section 1.1275-2(h), and therefore no Loan is governed by the rules set out in Treasury Regulations Section 1.1275-4, (b) except for a Lender described in Sections 871(h)(3) or 881(c)(3) of the Code, absent the adoption of or any change in a Requirement of Law, all interest on the Loans is "portfolio interest" within the meaning of Sections 871(h) or 881(c) of the Code, and therefore is exempt from withholding tax under Sections 1441(c)(9) or 1442(a) of the Code, and (c) to adhere to this Section 13.21 for federal income and any other applicable tax purposes and not to take any action or file any Tax Return, report or declaration inconsistent herewith.

13.22 Original Issue Discount. For purposes of Sections 1272, 1273 and 1275 of the Code, each Loan is being issued with original issue discount; please contact Robert P. Jordheim, Chief Financial Officer, 203 Fort Wade Road, Suite 150, Ponte Vedra, FL 32081, telephone: (904) 373-5940 to obtain information regarding the issue price, the amount of original issue discount and the yield to maturity.

13.23 ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.

SECTION 14
GUARANTEE

14.01 The Guarantee. The Subsidiary Guarantors hereby jointly and severally guarantee to the Secured Parties and their respective successors and assigns the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of the principal of and interest on the Loans and all fees and other amounts from time to time owing to the Secured Parties by Borrower under this Agreement or under any other Loan Document and by any other Obligor under any of the Loan Documents, in each case strictly in accordance with the terms thereof (such obligations being herein collectively called the "***Guaranteed Obligations***"). The Subsidiary

Guarantors hereby further jointly and severally agree that if Borrower shall fail to pay in full when due (whether at stated maturity, by acceleration or otherwise) any of the Guaranteed Obligations, the Subsidiary Guarantors will promptly pay the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

14.02 Obligations Unconditional; Subsidiary Guarantor Waivers. The obligations of the Subsidiary Guarantors under **Section 14.01** are absolute and unconditional, joint and several, irrespective of the value, genuineness, validity, regularity or enforceability of the obligations of Borrower under this Agreement or any other agreement or instrument referred to herein, or any substitution, release or exchange of any other guarantee of or security for any of the Guaranteed Obligations, and, to the fullest extent permitted by applicable law, irrespective of any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this **Section 14.02** that the obligations of the Subsidiary Guarantors hereunder shall be absolute and unconditional, joint and several, under any and all circumstances. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Subsidiary Guarantors hereunder, which shall remain absolute and unconditional as described above, and each Subsidiary Guarantor hereby irrevocably waives any defenses to enforcement it may have (now or in the future) by reason of:

(a) any change in the time, including the time for any performance or compliance with, place or manner of payment of, or in any other term of, the Guaranteed Obligations or any other obligation of any Obligor under any Loan Document, or any rescission, waiver, amendment or other modification of any Loan Document or any other agreement, including any increase in the Guaranteed Obligations resulting from any extension of additional credit or otherwise;

(b) any of the acts mentioned in any of the provisions of this Agreement or any other agreement or instrument referred to herein shall be done or omitted;

(c) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be modified, supplemented or amended in any respect, or any right under this Agreement or any other agreement or instrument referred to herein shall be waived or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(d) any taking, exchange, substitution, release, impairment or non-perfection of any Collateral, any taking, release, impairment, amendment, waiver or other modification of any guaranty, for the Guaranteed Obligations or any lien or security interest granted to, or in favor of, the Secured Parties as security for any of the Guaranteed Obligations shall fail to be perfected; and

(e) the failure of any other Person to execute or deliver this Agreement, any Loan Document or any other guaranty or agreement or the release or reduction of liability of any Obligor or other guarantor or surety with respect to the Guaranteed Obligations.

The Subsidiary Guarantors hereby expressly waive, to the extent permitted by applicable Law, diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that any Secured Party exhaust any right, power or remedy or proceed against Borrower under this Agreement or any other agreement or instrument referred to herein, or against any other Person under any other guarantee of, or security for, any of the Guaranteed Obligations.

14.03 Reinstatement. The obligations of the Subsidiary Guarantors under this **Section 14** shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of Borrower in respect of the Guaranteed Obligations is rescinded or must be otherwise restored by any holder of any of the Guaranteed Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Subsidiary Guarantors jointly and severally agree that they will indemnify the Secured Parties on demand for all reasonable costs and expenses (including fees of counsel) incurred by the Lenders in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

14.04 Subrogation. The Subsidiary Guarantors hereby jointly and severally agree that until the payment and satisfaction in full of all Guaranteed Obligations and the expiration and termination of the Commitments under this Agreement, they shall not exercise any right or remedy arising by reason of any performance by them of their guarantee in **Section 14.01**, whether by subrogation or otherwise, against Borrower or any other guarantor of any of the Guaranteed Obligations or any security for any of the Guaranteed Obligations.

14.05 Remedies. The Subsidiary Guarantors jointly and severally agree that, as between the Subsidiary Guarantors and the Secured Parties, the obligations of Borrower under this Agreement and under the other Loan Documents may be declared to be forthwith due and payable as provided in **Section 11** (and shall be deemed to have become automatically due and payable in the circumstances provided in **Section 11**) for purposes of **Section 14.01** notwithstanding any stay, injunction or other prohibition preventing such declaration (or such obligations from becoming automatically due and payable) as against Borrower and that, in the event of such declaration (or such obligations being deemed to have become automatically due and payable), such obligations (whether or not due and payable by Borrower) shall forthwith become due and payable by the Subsidiary Guarantors for purposes of **Section 14.01**.

14.06 Instrument for the Payment of Money. Each Subsidiary Guarantor hereby acknowledges that the guarantee in this **Section 14** constitutes an instrument for the payment of money, and consents and agrees that the Secured Parties, at their sole option, in the event of a dispute by such Subsidiary Guarantor in the payment of any moneys due hereunder, shall have the right to proceed by motion for summary judgment in lieu of complaint pursuant to N.Y. Civ. Prac. L&R § 3213.

14.07 Continuing Guarantee. The guarantee in this **Section 14** is a continuing guarantee, and shall apply to all Guaranteed Obligations whenever arising.

14.08 Rights of Contribution. The Subsidiary Guarantors hereby agree, as between themselves, that if any Subsidiary Guarantor shall become an Excess Funding Guarantor (as

defined below) by reason of the payment by such Subsidiary Guarantor of any Guaranteed Obligations, each other Subsidiary Guarantor shall, on demand of such Excess Funding Guarantor (but subject to the next sentence), pay to such Excess Funding Guarantor an amount equal to such Subsidiary Guarantor's Pro Rata Share (as defined below and determined, for this purpose, without reference to the properties, debts and liabilities of such Excess Funding Guarantor) of the Excess Payment (as defined below) in respect of such Guaranteed Obligations. The payment obligation of a Subsidiary Guarantor to any Excess Funding Guarantor under this **Section 14.08** shall be subordinate and subject in right of payment to the prior payment in full of the obligations of such Subsidiary Guarantor under the other provisions of this **Section 14** and such Excess Funding Guarantor shall not exercise any right or remedy with respect to such excess until payment and satisfaction in full of all of such obligations.

For purposes of this **Section 14.08**, (a) "***Excess Funding Guarantor***" means, in respect of any Guaranteed Obligations, a Subsidiary Guarantor that has paid an amount in excess of its Pro Rata Share of such Guaranteed Obligations, (b) "***Excess Payment***" means, in respect of any Guaranteed Obligations, the amount paid by an Excess Funding Guarantor in excess of its Pro Rata Share of such Guaranteed Obligations and (c) "***Pro Rata Share***" means, for any Subsidiary Guarantor, the ratio (expressed as a percentage) of (x) the amount by which the aggregate present fair saleable value of all properties of such Subsidiary Guarantor (excluding any Equity Interests of any other Subsidiary Guarantor) exceeds the amount of all the debts and liabilities of such Subsidiary Guarantor (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of such Subsidiary Guarantor hereunder and any obligations of any other Subsidiary Guarantor that have been Guaranteed by such Subsidiary Guarantor) to (y) the amount by which the aggregate fair saleable value of all properties of all of the Subsidiary Guarantors exceeds the amount of all the debts and liabilities (including contingent, subordinated, unmatured and unliquidated liabilities, but excluding the obligations of Borrower and the Subsidiary Guarantors hereunder and under the other Loan Documents) of all of the Subsidiary Guarantors, determined (A) with respect to any Subsidiary Guarantor that is a party hereto on the Closing Date, as of the Closing Date, and (B) with respect to any other Subsidiary Guarantor, as of the date such Subsidiary Guarantor becomes a Subsidiary Guarantor hereunder.

14.09 General Limitation on Guarantee Obligations. In any action or proceeding involving any provincial, territorial or state corporate law, or any state or federal bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Subsidiary Guarantor under **Section 14.01** would otherwise, taking into account the provisions of **Section 14.08**, be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under **Section 14.01**, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Subsidiary Guarantor, any Secured Party or any other Person, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the day and year first above written.

BORROWER:

TREACE MEDICAL CONCEPTS, INC.

By: /s/ Robert P. Jordheim
Name: Robert P. Jordheim
Title: Chief Financial Officer, Treasurer and Assistant Secretary

Address for Notices:
203 Fort Wade Road, Suite 150
Ponte Vedra, FL 32081
Attn: Jim Frais
Tel: ***
Fax: ***
Email: ***

ADMINISTRATIVE AGENT:

CRG SERVICING LLC

By: /s/ Nathan Hukill
Name: Nathan Hukill
Title: Authorized Signatory

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

LENDERS:

CRG PARTNERS IV L.P.
By: CRG PARTNERS IV GP L.P.,
its general partner

By: /s/ Nathan Hukill
Name: Nathan Hukill
Title: Sole Member

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

CRG PARTNERS IV – PARALLEL FUND "C" (CAYMAN) L.P.
By: CR GROUP L.P.
its investment advisor

By: /s/ Nathan Hukill
Name: Nathan Hukill
Title: Authorized Signatory

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

VCOC LENDER:

CRG PARTNERS IV GP L.P.
its general partner
By: CRG PARTNERS IV GP LLC,
its general partner
By: /s/ Nathan Hukill
Name: Nathan Hukill
Title: Sole Member

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

Schedule 1

Commitments

Lender	Commitment
CRG Partners IV L.P.	$ 25,154,937.12
CRG Partners IV - Parallel Fund “C” (Cayman) L.P.	$ 24,845,062.88
Total	$ 50,000,000.00

Schedule 7.05(b)(i)

Certain Intellectual Property

A. **Patent Applications and Registered Patents**

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	15/210,426	14-Jul-2016	9,936,994	10-Apr-2018
Treace Medical Concepts, Inc.	BONE HARVESTER AND BONE MARROW REMOVAL SYSTEM AND METHOD	US	14/724,072	28-May-2015	9,925,068	27-Mar-2018
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	14/990,574	07-Jan-2016	9,687,250	27-Jun-2017
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	14/981,335	28-Dec-2015	9,622,805	18-Apr-2017
Treace Medical Concepts, Inc.	INTRA-OSSEOUS PLATE SYSTEM AND METHOD	US	15/148,774	06-May-2016	10,653,467	19-May-2020
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	15/603,056	23-May-2017	10,603,046	31-Mar-2020
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	15/809,298	10-Nov-2017	10,582,936	10-Mar-2020
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	US	15/267,531	16-Sep-2016	10,575,862	03-Mar-2020
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	16/593,153	04-Oct-2019	10,561,426	18-Feb-2020
Treace Medical Concepts, Inc.	BONE POSITIONING AND CUTTING SYSTEM AND METHOD	US	15/894,702	12-Feb-2018	10,555,757	11-Feb-2020
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	15/809,276	10-Nov-2017	10,524,808	07-Jan-2020

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	OSTEOTOMY PROCEDURE FOR CORRECTING BONE MISALIGNMENT	US	15/687,986	28-Aug-2017	10,512,470	24-Dec-2019
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	15/236,464	14-Aug-2016	10,342,590	09-Jul-2019
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	15/910,428	02-Mar-2018	10,335,220	02-Jul-2019
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	US	14/990,368	07-Jan-2016	10,245,088	02-Apr-2019
Treace Medical Concepts, Inc.	BONE PLATING KIT FOR FOOT AND ANKLE APPLICATIONS	US	15/047,343	18-Feb-2016	10,245,086	02-Apr-2019
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	15/452,236	07-Mar-2017	10,045,807	14-Aug-2018
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING COMPRESSOR-DISTRACTOR AND INSTRUMENT PROVIDING SLIDING SURFACE	AU	2020200936	10-Feb-2020		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING COMPRESSOR-DISTRACTOR AND INSTRUMENT PROVIDING SLIDING SURFACE	US	16/784,742	07-Feb-2020		
Treace Medical Concepts, Inc.	BI-PLANAR INSTRUMENT FOR BONE CUTTING AND JOINT REALIGNMENT PROCEDURE	US	62/883,649	07-Aug-2019		
Treace Medical Concepts, Inc.	SURGICAL PIN POSITIONING LOCK	US	62/899,723	12-Sep-2019		
Treace Medical Concepts, Inc.	MULTI-DIAMETER K-WIRE FOR ORTHOPEDIC APPLICATIONS	US	62/900,391	13-Sep-2019		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	METATARSOPHALANGEAL JOINT PREPARATION AND METATARSAL REALIGNMENT FOR FUSION	US	62/968,244	31-Jan-2020		
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR TREATING METATARSUS ADDUCTUS	US	63/027,340	19-May-2020		
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	16/792,880	17-Feb-2020		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	AU	2016294588	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	AU	2016308461	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	AU	2016323600	16-Sep-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	AU	2016308483	14-Aug-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	AU	2016205290	07-Jan-2016		
Treace Medical Concepts, Inc.	INTRA-OSSEOUS PLATE SYSTEM AND METHOD	US	16/877,159	18-May-2020		
Treace Medical Concepts, Inc.	OSTEOTOMY PROCEDURE FOR CORRECTING BONE MISALIGNMENT	US	15/687,994	28-Aug-2017		
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	16/812,487	09-Mar-2020		
Treace Medical Concepts, Inc.	FULCRUM FOR TARSAL-METATARSAL JOINT PROCEDURE	US	15/905,495	26-Feb-2018		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	JP	2017536855	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	JP	2018507707	12-Aug-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	JP	2018501919	14-Jul-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	JP	2018514331	16-Sep-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	CA	2973105	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	CA	2991424	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	CA	2995627	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	CA	2998481	16-Sep-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	CA	2998727	14-Aug-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	EP	167354059	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	EP	168251767	14-Jul-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	EP	168376242	14-Aug-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	EP	168376119	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	EP	168473676	16-Sep-2016		
Treace Medical Concepts, Inc.	PIVOTABLE BONE CUTTING GUIDE USEFUL FOR BONE REALIGNMENT AND COMPRESSION TECHNIQUES	US	15/047,288	18-Feb-2016		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	15/210,497	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE HARVESTER AND BONE MARROW REMOVAL SYSTEM AND METHOD	US	15/894,686	12-Feb-2018		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	16/031,855	10-Jul-2018		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	16/731,612	31-Dec-2019		
Treace Medical Concepts, Inc.	BONE PLATING KIT FOR FOOT AND ANKLE APPLICATIONS	US	16/278,264	18-Feb-2019		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	US	16/278,255	18-Feb-2019		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	16/422,557	24-May-2019		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	16/448,357	21-Jun-2019		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	16/505,363	08-Jul-2019		
Treace Medical Concepts, Inc.	COMPRESSOR- DISTRACTOR FOR ANGULARLY REALIGNING BONE PORTIONS	US	16/508,817	11-Jul-2019		
Treace Medical Concepts, Inc.	MULTI-DIAMETER BONE PIN FOR INSTALLING AND ALIGNING BONE FIXATION PLATE WHILE MINIMIZING BONE DAMAGE	US	16/510,682	12-Jul-2019		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	US	16/750,829	23-Jan-2020		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE POSITIONING AND CUTTING SYSTEM AND METHOD	US	16/730,424	30-Dec-2019		
Treace Medical Concepts, Inc.	COMPRESSOR-DISTRACTOR FOR ANGULARLY REALIGNING BONE PORTIONS	WO	US2019/041365	11-Jul-2019		
Treace Medical Concepts, Inc.	MULTI-DIAMETER BONE PIN FOR INSTALLING AND ALIGNING BONE FIXATION PLATE WHILE MINIMIZING BONE DAMAGE	WO	US2019/041685	12-Jul-2019		

Patent Licenses

Owner (Borrower/Grantor)	Licensor	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	Daniel J. Hatch, DPM	LOCKING PLATE WITH SCREW FIXATION FROM OPPOSITE CORTEX	US	13/781,492	7/28/2013	9,700,359	7/11/2017

B. Trademarks, Trademark Applications and Trademark Licenses

Owner (Borrower/Grantor)	Juris-diction	Trademark	Registration No./ Serial No.	Application Date	Registration Date
Treace Medical Concepts, Inc.	US	A STEP AHEAD IN FOOT AND ANKLE SURGERY	SN: 86203939 RN: 4969221	02/25/2014	05/31/2016
Treace Medical Concepts, Inc.	US	ALIGN MY TOE	SN: 88205984	11/26/2018	
Treace Medical Concepts, Inc.	US	CONTROL 360	RN: 4965818 SN: 86535501	02/15/205	05/24/2016
Treace Medical Concepts, Inc.	US	FAST GRAFTER	RN: 5968431 SN: 88096937	08/29/2018	01/21/2020
Treace Medical Concepts, Inc.	US	FIX IT RIGHT THE FIRST TIME	SN: 88205958	11/26/2018	
Treace Medical Concepts, Inc.	US	GOT BUNIONS	SN: 87939860	11/29/2018	
Treace Medical Concepts, Inc.	US	LAPIDESIS	SN: 88796948	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIFIX	SN: 88796963	02/13/2020	

Owner (Borrower/Grantor)	Juris-diction	Trademark	Registration No./ Serial No.	Application Date	Registration Date
Treace Medical Concepts, Inc.	US	LAPIFORCE	SN: 88796975	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIGRAFTER	SN: 88796986	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIPLASTY	SN: 86802324 RN: 5115724	10/28/2015	01/03/2017
Treace Medical Concepts, Inc.	US	PLANTAR PYTHON	SN: 86692191 RN: 5087675	07/14/2015	11/22/2016
Treace Medical Concepts, Inc.	US	SPEEDSEEKER	SN: 88703745	11/22/2019	
Treace Medical Concepts, Inc.	US	THE FUTURE OF HALLUX VALGUS	SN: 88205976	11/26/2018	
Treace Medical Concepts, Inc.	US	TREACE MEDICAL CONCEPTS	SN: 86535492 RN: 5115111	02/15/2015	01/03/2017
Treace Medical Concepts, Inc.	US		SN: 86536930 RN: 5100983	02/17/2015	12/13/2016

C. None.

D. None.

E. None.

F. www.treace.com; www.treace.net

G. None.

Schedule 7.05(b)(ii)

Intellectual Property Exceptions

None.

Schedule 7.05(c)

Material Intellectual Property

See Schedule 7.05(b)(i)(A) (excluding licensed U.S. Patent No. 9,700,359); 7.05(b)(i)(B) (excluding the following trademarks: A STEP AHEAD IN FOOT AND ANKLE SURGERY; CONTROL 360; and LAPIFIX) and 7.05(b)(i)(F).

Schedule 7.12

Information Regarding Subsidiaries

None.

Schedule 7.13(a) (I and II)

Existing Indebtedness

(I) Indebtedness of the Borrower under the Paycheck Protection Program and evidenced by that certain U.S. Small Business Administration Paycheck Protection Program Note dated as of April 22, 2020, executed by the Borrower in favor of Silicon Valley Bank.

(II) None.

Schedule 7.13(b) (I and II)

Existing Liens

(I) None.

(II) None.

Schedule 7.14

Material Agreements

Real Estate Lease Contract (Company Headquarters)	Contract Type	Effective Date
Global Realty of North Florida LLC	Lease Agreement	May 1, 2017
Global Realty of North Florida LLC	First Amendment to Lease	May 26, 2017
Global Realty of North Florida LLC	Second Amendment to Lease	September 27, 2019
Global Realty of North Florida LLC	Third Amendment to Lease	November 7, 2019

Schedule 7.16

Real Property

203 Fort Wade Road, Suite 150
Ponte Vedra, Florida 32081

Schedule 7.17

Pension Matters

Treace Medical Concepts, Inc. 2014 Stock Plan, as amended.

Schedule 9.05

Existing Investments

None.

Schedule 9.11

Restrictive Agreements

None.

Exhibit A
to Term Loan Agreement

Form of Guarantee Assumption Agreement

GUARANTEE ASSUMPTION AGREEMENT dated as of [DATE] (this "***Agreement***") by [NAME OF ADDITIONAL SUBSIDIARY GUARANTOR], a [JURISDICTION OF FORMATION] [ENTITY TYPE] (the "***Additional Subsidiary Guarantor***"), in favor of CRG SERVICING LLC, as administrative agent and collateral agent (the "***Administrative Agent***") for the benefit of the Secured Parties under that certain Term Loan Agreement, dated as of July 31, 2020 (as amended, restated, supplemented or otherwise modified, renewed, refinanced or replaced, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), Administrative Agent, the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. The terms defined in the Loan Agreement are herein used as therein defined.

Pursuant to Section 8.12(a) of the Loan Agreement, the Additional Subsidiary Guarantor hereby agrees to become a "***Subsidiary Guarantor***" for all purposes of the Loan Agreement, and a "***Grantor***" for all purposes of the Security Agreement. Without limiting the foregoing, (x) the Additional Subsidiary Guarantor hereby, jointly and severally with the other Subsidiary Guarantors, guarantees to the Secured Parties and their successors and assigns the prompt payment in full when due (whether at stated maturity, by acceleration or otherwise) of all Guaranteed Obligations in the same manner and to the same extent as is provided in Section 14 of the Loan Agreement and (y) the Additional Subsidiary Guarantor hereby agrees to execute and deliver to the Administrative Agent a Joinder (as defined in the Security Agreement).

In addition, as of the date hereof, the Additional Subsidiary Guarantor hereby makes the representations and warranties set forth in Sections 7.01, 7.02, 7.03, 7.05(a), 7.06, 7.07, 7.08¸7.10, 7.18 and 7.19 of the Loan Agreement, and in Section 2 of the Security Agreement, with respect to itself and its obligations under this Agreement and the other Loan Documents, as if each reference in such Sections to the Loan Documents included reference to this Agreement, such representations and warranties to be made as of the date hereof.

The Additional Subsidiary Guarantor hereby instructs its counsel to deliver the evidence of corporate action, incumbency of officers, opinions of counsel and other documents referred to in Section 8.12(a) of the Loan Agreement to Administrative Agent.

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

[Signature Page Follows]

[ADDITIONAL SUBSIDIARY GUARANTOR]

By: _____

Name:
Title:

Exhibit B
to Term Loan Agreement

Form of Notice of Borrowing

Date: [ ]

To: CRG Servicing LLC and the Lenders referred to below
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting

Re: Borrowing under Term Loan Agreement

Ladies and Gentlemen:

The undersigned, TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), refers to the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among Borrower, CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. The terms defined in the Loan Agreement are herein used as therein defined.

Borrower hereby gives you notice irrevocably, pursuant to Section 2.02 of the Loan Agreement, of the borrowing of the Loan specified herein:

1. The proposed Borrowing Date is [ ].

2. The amount of the proposed Borrowing is $[_].

3. The payment instructions with respect to the funds to be made available to Borrower are as follows:

Bank Name:	[ ]
Bank Address:	[ ]
Routing Number:	[ ]
Account Number:	[ ]
Account Name:	[ ]
Swift Code:	[ ]
[FBO Account Name and Number][1]	[ ]

[1] If applicable.

4. The person you may contact to confirm these wire instructions is [NAME], [TITLE] at [OFFICE NUMBER] or [MOBILE NUMBER].

Administrative Agent will verify all wire instructions exclusively via the phone numbers listed above. Should Borrower need to update the wire instructions provided in this Notice of Borrowing, Borrower must submit a written notice to Administrative Agent in substantially the form of **Exhibit B** to the Loan Agreement to the address and facsimile number indicated on the signature pages thereto.

Borrower hereby certifies that the following statements are true on the date hereof, and will be true on the date of the proposed borrowing of the Loan, before and after giving effect thereto and to the application of the proceeds therefrom:

(a) the representations and warranties made by Borrower in Section 7 of the Loan Agreement and in the other Loan Documents shall be true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on and as of the Borrowing Date and immediately after giving effect to the application of the proceeds of the Borrowing with the same force and effect as if made on and as of such date, except that the representation regarding representations and warranties that refer to a specific earlier date shall be that they were true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on such earlier date;

(b) no Material Adverse Effect has occurred or is reasonably likely to occur after giving effect to such proposed Borrowing; and

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

[Signature Page Follows]

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

BORROWER:

TREACE MEDICAL CONCEPTS, INC.

By: _____

Name:
Title:

Exhibit C-1
to Term Loan Agreement

Form of U.S. Tax Compliance Certificate

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, the "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. [▯] (the "***Foreign Lender***") is providing this certificate pursuant to Section 5.03(e)(ii)(B) of the Loan Agreement. The Foreign Lender hereby represents and warrants that:

1. The Foreign Lender is the sole record owner of the Loans in respect of which it is providing this certificate;

2. The Foreign Lender is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "***Code***"). In this regard, the Foreign Lender further represents and warrants that:

(a) The Foreign Lender is not subject to regulatory or other legal requirements as a bank in any jurisdiction; and

(b) The Foreign Lender has not been treated as a bank for purposes of any tax, securities law or other filing or submission made to any Governmental Authority, any application made to a rating agency or qualification for any exemption from tax, securities law or other legal requirements;

3. The Foreign Lender is not a 10-percent shareholder of Borrower within the meaning of Section 881(c)(3)(B) of the Code; and

4. The Foreign Lender is not a controlled foreign corporation receiving interest from a related person within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned Foreign Lender has made available to Borrower (directly or through Administrative Agent) a certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this certificate to be duly executed and delivered as of the date indicated below.

[NAME OF NON U.S. LENDER]

By: _____
Name:
Title:

Date: _____

Exhibit C-2
to Term Loan Agreement

Form of U.S. Tax Compliance Certificate

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, the "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. [ ] (the "***Foreign Participant***") is providing this certificate pursuant to Section 5.03(e)(ii)(B) of the Loan Agreement. The Foreign Participant hereby represents and warrants that:

1. The Foreign Participant is the sole record and beneficial owner of the participation in respect of which it is providing this certificate;

2. The Foreign Participant is not a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "***Code***"). In this regard, the Foreign Participant further represents and warrants that:

(a) The Foreign Participant is not subject to regulatory or other legal requirements as a bank in any jurisdiction; and

(b) The Foreign Participant has not been treated as a bank for purposes of any tax, securities law or other filing or submission made to any Governmental Authority, any application made to a rating agency or qualification for any exemption from tax, securities law or other legal requirements;

3. The Foreign Participant is not a 10-percent shareholder of Borrower within the meaning of Section 881(c)(3)(B) of the Code; and

4. The Foreign Participant is not a controlled foreign corporation receiving interest from a related person within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned Foreign Participant has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this certificate to be duly executed and delivered as of the date indicated below.

[NAME OF NON U.S. PARTICIPANT]

By: _____
Name:
Title:

Date: _____

Exhibit C-3
to Term Loan Agreement

Form of U.S. Tax Compliance Certificate

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, the "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. [ ] (the "***Foreign Participant***") is providing this certificate pursuant to Section 5.03(e)(ii)(B) of the Loan Agreement. The Foreign Participant hereby represents and warrants that:

1. The Foreign Participant is the sole record owner of the participation in respect of which it is providing this certificate;

2. The Foreign Participant's direct or indirect partners/members are the sole beneficial owners of the participation in respect of which it is providing this certificate;

3. Neither the Foreign Participant nor its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "***Code***"). In this regard, the Foreign Participant further represents and warrants that:

(a) neither the Foreign Participant nor its direct or indirect partners/members is subject to regulatory or other legal requirements as a bank in any jurisdiction; and

(b) neither the Foreign Participant nor its direct or indirect partners/members has been treated as a bank for purposes of any tax, securities law or other filing or submission made to any Governmental Authority, any application made to a rating agency or qualification for any exemption from tax, securities law or other legal requirements;

4. Neither the Foreign Participant nor its direct or indirect partners/members is a 10-percent shareholder of Borrower within the meaning of Section 881(c)(3)(B) of the Code; and

5. Neither the Foreign Participant nor its direct or indirect partners/members is a controlled foreign corporation receiving interest from a related person within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned Foreign Participant has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms for each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each such partner's/member's beneficial owners that is claiming the portfolio interest exemption.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this certificate to be duly executed and delivered as of the date indicated below.

[NAME OF NON U.S. PARTICIPANT]

By: _____
Name:
Title:

Date: _____

Form of U.S. Tax Compliance Certificate

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is made to the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, the "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. [ ] (the "***Foreign Lender***") is providing this certificate pursuant to Section 5.03(e)(ii)(B) of the Loan Agreement. The Foreign Lender hereby represents and warrants that:

1. The Foreign Lender is the sole record owner of the Loans in respect of which it is providing this certificate;

2. The Foreign Lender's direct or indirect partners/members are the sole beneficial owners of the Loans in respect of which it is providing this certificate;

3. Neither the Foreign Lender nor its direct or indirect partners/members is a "bank" for purposes of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended (the "***Code***"). In this regard, the Foreign Lender further represents and warrants that:

(a) neither the Foreign Lender nor its direct or indirect partners/members is subject to regulatory or other legal requirements as a bank in any jurisdiction; and

(b) neither the Foreign Lender nor its direct or indirect partners/members has been treated as a bank for purposes of any tax, securities law or other filing or submission made to any Governmental Authority, any application made to a rating agency or qualification for any exemption from tax, securities law or other legal requirements;

4. Neither the Foreign Lender nor its direct or indirect partners/members is a 10-percent shareholder of Borrower within the meaning of Section 881(c)(3)(B) of the Code; and

5. Neither the Foreign Lender nor its direct or indirect partners/members is a controlled foreign corporation receiving interest from a related person within the meaning of Section 881(c)(3)(C) of the Code.

The undersigned Foreign Lender has made available to Borrower (directly or through Administrative Agent) an IRS Form W-8IMY accompanied by one of the following forms for each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable, from each such partner's/member's beneficial owners that is claiming the portfolio interest exemption.

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

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has caused this certificate to be duly executed and delivered as of the date indicated below.

[NAME OF NON U.S. LENDER]

By: _____
Name:
Title:

Date: _____

FORM OF COMPLIANCE CERTIFICATE

[DATE]

This certificate is delivered pursuant to Section Error! Reference source not found. of, and in connection with the consummation of the transactions contemplated in, the Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation ("***Borrower***"), CRG Servicing LLC, as administrative agent and collateral agent (in such capacities, the "***Administrative Agent***"), the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto. Capitalized terms used herein and not otherwise defined herein are used herein as defined in the Loan Agreement.

The undersigned, a duly authorized Responsible Officer of Borrower that is a financial officer having the name and title set forth below under his or her signature, hereby certifies, on behalf of Borrower for the benefit of the Secured Parties and pursuant to Section 8.01(c) of the Loan Agreement that such Responsible Officer of Borrower is familiar with the Loan Agreement and that, in accordance with each of the following sections of the Loan Agreement, each of the following is true on the date hereof, both before and after giving effect to any Loan to be made on or before the date hereof:

In accordance with Section 8.01[(a)/(b)] of the Loan Agreement, attached hereto as Annex A are the financial statements for the [fiscal quarter/fiscal year] ended [ ] required to be delivered pursuant to Section 8.01[(a)/(b)] of the Loan Agreement. Such financial statements fairly present in all material respects the consolidated financial position, results of operations and cash flow of Borrower and its Subsidiaries as at the dates indicated therein and for the periods indicated therein in accordance with GAAP [(subject to the absence of footnote disclosure and normal year-end audit adjustments)].[2]

Attached hereto as Annex B are the calculations used to determine compliance with each financial covenant contained in Section 10 of the Loan Agreement.

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

The representations and warranties made by Borrower in Section 7 of the Loan Agreement and in the other Loan Documents are true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on and as of the date hereof, with the same force and effect as if made on and as of the date hereof (except that the representation regarding representations and warranties

[2] Insert language in brackets only for quarterly certifications.

that refer to a specific earlier date is that they were true and correct in all material respects (and in all respects if such representation or warranty is qualified by materiality or reference to Material Adverse Change or Material Adverse Effect) on such earlier date)[, except as provided for on Annex D attached hereto, with respect to each of which Borrower proposes to take the actions set forth on such Annex D].

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

TREACE MEDICAL CONCEPTS, INC.

By: _____
Name:
Title:

Financial Statements

(see attached)

Exhibit D-3

Calculations of Financial Covenant Compliance

I.	**Section 10.01: Minimum Liquidity**	
A.	Amount of unencumbered (other than by Liens described in Sections Error! Reference source not found., Error! Reference source not found. (*provided*, that there is no default under the documentation governing the Permitted Priority Debt) and 9.02(p)) cash and Permitted Cash Equivalent Investments (which for greater certainty shall not include any undrawn credit lines), in each case, to the extent held in an account over which the Administrative Agent, on behalf of the Secured Parties, has a perfected security interest as of the date of this certificate:	$[▯]
B.	The greater of:	$[▯]
	(1) $3,000,000 and	
	(2) to the extent Borrower has incurred Permitted Priority Debt, the minimum cash balance, if any, required of Borrower and its Subsidiaries by Borrower's Permitted Priority Debt creditors	
	Was Liquidity at all times during the fiscal [year]/[quarter] ending [▯], 20[▯] greater than Line I.B?	*[Yes: In compliance] / [No: Not in compliance]*
II.	**Section 10.02: Minimum Revenue**	
A.	Revenues from sales of the Procedure during the twelve-month period beginning on January 1, 2021	$[▯]
	Is line II.A equal to or greater than $50,000,000?	*[Yes: In compliance] / [No: Not in compliance][3]*
B.	Revenues from sales of the Procedure during the twelve-month period beginning on January 1, 2022	$[▯]
	Is line II.B equal to or greater than $60,000,000?	*[Yes: In compliance] / [No: Not in compliance][4]*
C.	Revenues from sales of the Procedure during the twelve-month period beginning on January 1, 2023	$[▯]
	Is line II.C equal to or greater than $70,000,000?	*[Yes: In compliance] / [No: Not in compliance][5]*

3 Include bracketed entry only on the Compliance Certificate to be delivered pursuant to Section 8.01(c) of the Loan Agreement with respect to the fiscal year ending December 31, 2021.

4 Include bracketed entry only on the Compliance Certificate to be delivered pursuant to Section 8.01(c) of the Loan Agreement with respect to the fiscal year ending December 31, 2022.

5 Include bracketed entry only on the Compliance Certificate to be delivered pursuant to Section 8.01(c) of the Loan Agreement for the fiscal year ending December 31, 2023.

D.	Revenues from sales of the Procedure during the twelve month period beginning on January 1, 20[ ][6]	$[ ]
	Is line II.D equal to or greater than $80,000,000?	*[Yes: In compliance] / [No: Not in compliance]*[7]

6 Complete this row for the fiscal year beginning January 1, 2024 and each subsequent fiscal year.

7 Include bracketed entry only on the Compliance Certificate to be delivered pursuant to Section 8.01(c) of the Loan Agreement for the fiscal year ending December 31, 2024 and for each fiscal year thereafter.

FORM OF LANDLORD CONSENT

THIS LANDLORD CONSENT (the "***Agreement***") is made and entered into as of [INSERT DATE] by and among CRG Servicing LLC, as administrative agent and collateral agent for the "***Secured Parties***" as defined in the Loan Agreement referred to below (in such capacities, "***Administrative Agent***"), [INSERT NAME OF BORROWER or GUARANTOR], a [State of Formation] [Entity Type] ("***Debtor***"), and [INSERT NAME OF LANDLORD], a [State of Formation] [Entity Type] ("***Landlord***").

WHEREAS, Debtor has entered into a Term Loan Agreement, dated as of July 31, 2020 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "***Loan Agreement***"), among TREACE MEDICAL CONCEPTS, INC., a Delaware corporation, as borrower, Administrative Agent, the Lenders from time to time party thereto and the Subsidiary Guarantors from time to time party thereto, pursuant to which the Secured Parties have been granted a security interest in all of Debtor's personal property, including, but not limited to, inventory, equipment and trade fixtures (hereinafter "***Personal Property***"); and

WHEREAS, Landlord is the owner of the real property located at [▯](the "***Premises***"); and

WHEREAS, Landlord and Debtor have entered into that certain Lease dated [▯][, as amended by [▯] dated [▯]] ([collectively,] the "***Lease***"), pursuant to which the Debtor leases the Premises from the Landlord; and

WHEREAS, certain of the Personal Property has or may become affixed to or be located on, wholly or in part, the Premises.

NOW, THEREFORE, in consideration of any loans or other financial accommodation extended by the Secured Parties to Debtor at any time, and other good and valuable consideration, the parties agree as follows:

1. Landlord subordinates to Administrative Agent (for the benefit of the Secured Parties) all security interests or other interests or rights Landlord may now or hereafter have in, or to any of the Personal Property, whether for rent or otherwise.

2. The Personal Property may be installed in or located on the Premises and is not and shall not be deemed a fixture or part of the real estate and shall at all times be considered personal property.

3. Administrative Agent or its representatives may enter upon the Premises during normal business hours, and upon not less than 24 hours' advance notice to Landlord, to inspect the Personal Property.

4. Upon the occurrence and during the continuance of an Event of Default (as defined in the Loan Agreement) under the Loan Agreement, Administrative Agent or its representatives,

at Administrative Agent's option, upon written notice delivered to Landlord not less than ten (10) business days in advance, may enter the Premises during normal business hours for the purpose of repossessing, removing or otherwise dealing with the Personal Property; *provided* that neither Administrative Agent nor Secured Parties shall be permitted to operate the business of Debtor on the Premises or sell, auction or otherwise dispose of any Personal Property at the Premises or advertise any of the foregoing; and such license shall continue, from the date Administrative Agent enters the Premises for as long as Administrative Agent reasonably deems necessary but not to exceed a period of ninety (90) days. During the period Administrative Agent occupies the Premises, it shall pay to Landlord the basic rent provided under the Lease relating to the Premises, prorated on a per diem basis to be determined on a thirty (30) day month, without incurring any other obligations of Debtor.

5. Administrative Agent shall pay to Landlord any costs for damage to the Premises or the building in which the Premises is located in removing or otherwise dealing with said Personal Property pursuant to paragraph 4 above, and shall indemnify and hold harmless Landlord from and against (i) all claims, disputes and expenses, including reasonable attorneys' fees, suffered or incurred by Landlord arising from Administrative Agent's exercise of any of its rights hereunder, and (ii) any injury to third persons, caused by actions of Administrative Agent pursuant to this Agreement.

6. Landlord agrees to give notice to Administrative Agent in writing by certified mail, facsimile or email of Landlord's intent to exercise its remedies in response to any default by Debtor of any of the provisions of the Lease, to:

CRG Servicing LLC
1000 Main Street, Suite 2500
Houston, TX 77002
Attention: Portfolio Reporting
Fax: ***
Email: notices@crglp.com

7. Landlord shall have no obligation to preserve or protect the Personal Property or take any action in connection therewith, and Administrative Agent waives all claims they may now or hereafter have against Landlord in connection with the Personal Property.

8. This consent shall terminate and be of no further force or effect upon the earlier of (i) the date on which all indebtedness secured by the Personal Property indefeasibly is paid in full in cash and (ii) the date on which the Lease is terminated or expires.

Nothing contained herein shall be construed to amend the Lease, and the Lease remains unchanged and in full force and effect.

1. This consent shall be construed and interpreted in accordance with and governed by the laws of the State of [ ].

This consent may not be changed or terminated orally and is binding upon and shall inure to the benefit of Landlord, Administrative Agent, Secured Parties and Debtor and the heirs, personal representatives, successors and assigns of Landlord, Administrative Agent, Secured Parties and Debtor.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

LANDLORD:
[_____]

By: _____
Name:
Title:

Address for Notices:
[_____]
Attn: [_____]
Tel: [_____]
Fax: [_____]
Email: [_____]

ADMINISTRATIVE AGENT:

CRG SERVICING LLC

By: _____
Name:
Title:

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

Acknowledged and Agreed:
[INSERT NAME OF BORROWER OR GUARANTOR]

By: _____
Name:
Title:

Exhibit F
to Term Loan Agreement

FORM OF INTERCREDITOR AGREEMENT (PERMITTED PRIORITY DEBT)

This Intercreditor Agreement, dated as of [ ], 2020 (this "***Agreement***"), is made between CRG Servicing LLC, a Delaware limited liability company, as Administrative Agent and Collateral Agent for CRG Lenders (as defined below) ("***CRG Agent***"), and [ ], a [ ] (the "***ABL Lender***").

Recitals

A. Treace Medical Concepts, Inc., a Delaware corporation ("***Borrower***"), has entered into the ABL Credit Agreement (as defined below) with the ABL Lender, which, along with any other obligations owing to the ABL Lender by the Obligors, is secured by the ABL Senior Collateral.

B. Borrower has entered into that certain Term Loan Agreement, dated as of July 31, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the "***CRG Credit Agreement***"), with the subsidiary guarantors from time to time party thereto, the lenders from time to time party thereto ("***CRG Lenders***") and CRG Agent, as administrative agent and collateral agent for CRG Lenders which is secured by the CRG Senior Collateral.

C. To induce each of the ABL Lender and CRG Lenders to make and maintain the credit extensions under the ABL Credit Agreement and the CRG Credit Agreement, respectively, each of the ABL Lender and CRG Agent, on behalf of itself and CRG Lenders (collectively with the ABL Lender, "***Creditors***" and each a "***Creditor***"), is willing to enter into this Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Definitions. As used herein, the following terms have the following meanings:

"***ABL Credit Agreement***" means [ ].

"***ABL Credit Documents***" means the ABL Credit Agreement and all the other Loan Documents (as defined in the ABL Credit Agreement).

"***ABL Senior Collateral***" means (a) Accounts (other than IP/Equipment Accounts (as defined below)), (b) Inventory, (c) cash, Cash Equivalents, short and long term investments (other than any CRG Pledged Equity, regardless of whether such CRG Pledged Equity (x) is held in a securities account or (y) constitutes an investment), all bank accounts including, without limitation, all operating accounts, depository accounts, savings accounts, and securities accounts, and all property contained therein (other than any CRG Pledged Equity, regardless of whether such CRG Pledged Equity is held in a securities account), (d) all Obligors' books and records relating to the foregoing, and (e) all Proceeds of all of the foregoing; *provided*, *however*, that ABL Senior Collateral shall not include the following: (i) any right, title or interest of any Obligor in any Intellectual Property or any licenses thereof, (ii) any Accounts or proceeds arising from the sale, transfer, licensing or other disposition of any Intellectual Property (or licenses thereto) or from the

sale, transfer, lease or other disposition of equipment, (provided in each case, with respect to cash or Cash Equivalent proceeds, solely to the extent that such cash proceeds constitute CRG Cash Collateral) (collectively, "***IP/Equipment Accounts***"), (iii) equipment, (iv) to the extent evidencing, governing, securing or otherwise related to equipment, any general intangibles, chattel paper, instruments or documents, (v) any CRG Pledged Equity, (vi) proceeds of the foregoing **clauses (i)** through **(v)** and the proceeds of insurance policies, (provided with respect to cash or Cash Equivalent proceeds, solely to the extent that such cash proceeds or Cash Equivalents constitute CRG Cash Collateral), and (vii) CRG Cash Collateral and the Designated CRG Account.

"***Accounts***" means any "account," as such term is defined in the UCC, now owned or hereafter acquired by any Obligor or in which any Obligor now holds or hereafter acquires any interest.

"***Bank Services***" means any products, credit services, and/or financial accommodations previously, now, or hereafter provided to the Obligors by the ABL Lender or any of its affiliates, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, overdraft protection arrangements and extensions of credit, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services, as any such products or services may be identified in the ABL Lender's various agreements related thereto, in all cases whether or not provided pursuant to the ABL Credit Agreement.

"***Bankruptcy Code***" means the federal bankruptcy law of the United States as from time to time in effect, currently as Title 11 of the United States Code. Section references to current sections of the Bankruptcy Code shall refer to comparable sections of any revised version thereof if section numbering is changed.

"***Cash Equivalents***" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (c) demand deposit accounts, savings deposit accounts and certificates of deposit maturing no more than eighteen (18) months after issue, (d) money market funds publicly traded or regulated by a Governmental Authority at least ninety five percent (95%) of the assets of which are invested in cash equivalents of the type described in **clauses (a)** through **(c)** above, and (e) any other similar investments made pursuant to an Obligor's board approved investment policy.

"***Claim***" means, (a) in the case of the ABL Lender, any and all present and future "claims" (used in its broadest sense, as contemplated by and defined in Section 101(5) of the Bankruptcy Code, but without regard to whether such claim would be disallowed under the Bankruptcy Code) of the ABL Lender now or hereafter arising or existing under or relating to the ABL Credit Documents (with the principal amount of the ABL Lender's Claim at any time not to exceed the sum of (i) Ten Million Dollars ($10,000,000) under the Revolving Line (as defined in the ABL Credit Agreement) *plus* (ii) up to Two Million Dollars ($2,000,000) of Bank Services), whether joint, several, or joint and several, whether fixed or indeterminate, due or not yet due, contingent or non-contingent, matured or unmatured, liquidated or unliquidated, or disputed or undisputed,

whether under a guaranty or a letter of credit, and whether arising under contract, in tort, by law, or otherwise, any interest or fees thereon (including interest or fees that accrue after the filing of a petition by or against any Obligor under the Bankruptcy Code, irrespective of whether allowable under the Bankruptcy Code), any costs of Enforcement Actions, including reasonable attorneys' fees and costs, and any prepayment or termination fees, and (b) in the case of CRG Creditors, any and all present and future "claims" (used in its broadest sense, as contemplated by and defined in Section 101(5) of the Bankruptcy Code, but without regard to whether such claim would be disallowed under the Bankruptcy Code) of CRG Creditors, now or hereafter arising or existing under or relating to the CRG Credit Documents, whether joint, several, or joint and several, whether fixed or indeterminate, due or not yet due, contingent or non-contingent, matured or unmatured, liquidated or unliquidated, or disputed or undisputed, whether under a guaranty or a letter of credit, and whether arising under contract, in tort, by law, or otherwise, any interest or fees thereon (including interest or fees that accrue after the filing of a petition by or against any Obligor under the Bankruptcy Code, irrespective of whether allowable under the Bankruptcy Code), any costs of Enforcement Actions, including reasonable attorneys' fees and costs, and any prepayment or termination fees.

"***Collateral***" means all real or personal property of the Obligors in which any Creditor now or hereafter has a security interest.

"***Credit Documents***" means, collectively, the CRG Credit Documents and the ABL Credit Documents.

"***CRG Cash Collateral***" means all cash and Cash Equivalents of the Obligors that are Directly Traceable proceeds from (a) the sale or other disposition of the CRG Senior Collateral and which proceeds are held in the Designated CRG Account, (b) insurance policies with respect to any CRG Senior Collateral and which proceeds are held in the Designated CRG Account, and (c) the sale or other disposition of the CRG Senior Collateral or the proceeds of insurance policies with respect to any CRG Senior Collateral and which proceeds, in either case, are inadvertently deposited into a deposit or securities account that is not the Designated CRG Account (including a Non-Designated CRG Account); *provided*, that no later than the date seven (7) business days after the date such proceeds were inadvertently deposited into such account, CRG Agent has given the ABL Lender notice thereof.

"***CRG Credit Documents***" means all Loan Documents (as defined in the CRG Credit Agreement).

"***CRG Creditors***" means, collectively, CRG Agent and CRG Lenders.

"***CRG Pledged Equity***" means, collectively, the Equity Interests of each Obligor and each subsidiary and joint venture of an Obligor, whether now or hereafter owned, together in each case with (a) all certificates representing the same, (b) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of any CRG Pledged Equity, or resulting from a split-up, revision, reclassification or other like change of any CRG Pledged Equity or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, any CRG Pledged Equity, and (c) all Equity Interests of any successor entity of any merger or consolidation of an Obligor or any subsidiary or joint venture thereof.

"***CRG Senior Collateral***" means all Collateral in which CRG Agent has a security interest which, for the avoidance of doubt, excludes the ABL Senior Collateral.

"***Designated CRG Account***" means Obligors' account number ending [ ] (last 3 digits) maintained with ABL Lender, which account is to be used solely to maintain CRG Cash Collateral and in which the CRG Agent holds a perfected first-priority security interest subject to a control agreement in form and substance acceptable to the CRG Agent and to which, at the direction of the CRG Agent, CRG Cash Collateral is deposited from time to time, which for the avoidance of doubt shall not include, subject to Section 16(c), any ABL Senior Collateral.

"***Directly Traceable***" means, with respect to any cash or Cash Equivalent proceeds of CRG Senior Collateral (including any proceeds of insurance policies with respect thereto), that the deposit of the cash or Cash Equivalent proceeds from the sale or other disposition of the such CRG Senior Collateral (or from the insurance policy related thereto) into the applicable account shall have been documented, either by bank records relating to such deposit (e.g. copies of a deposited check or record of incoming funds transfers from the applicable purchaser, lessee or licensee of such CRG Senior Collateral), invoices, sale, license or lease agreements or other reasonable documentation that links the sale or other disposition of such CRG Senior Collateral (or the proceeds of the insurance policy related thereto) to the deposit of funds into the applicable account; *provided*, that to the extent such account is a Non-Designated CRG Account, upon request, the ABL Lender shall provide to CRG Agent any bank records in its possession relating to such deposit (and the Obligors hereby expressly consent thereto).

"***Enforcement Action***" means, with respect to any Creditor and with respect to any Claim of such Creditor or any item of Collateral in which such Creditor has or claims a security interest, lien, or right of offset, (a) any action, whether judicial or nonjudicial, to repossess, collect, offset, recoup, give notification to third parties with respect to, sell, dispose of, foreclose upon, give notice of sale, disposition, or foreclosure with respect to, or obtain equitable or injunctive relief with respect to, such Claim or Collateral, (b) any action in connection with any Insolvency Proceeding to protect, defend, enforce or assert rights with respect to such Claim or Collateral, including without limitation filing and defending any proof of claim, opposing or joining in the opposition of any sale of assets or confirmation of a plan of reorganization, or opposing or joining in the opposition of any proposed debtor-in-possession loan or use of cash collateral, and (c) the filing of, or the joining in the filing of, an involuntary bankruptcy or insolvency proceeding against any Obligor.

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

"***Event of Default***" means an "***Event of Default***" under and as defined in the CRG Credit Agreement or any of the other CRG Credit Documents in connection therewith or an "***Event of Default***" under and as defined in any of the ABL Credit Documents.

"***Governmental Authority***" means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"***Intellectual Property***" means, collectively, all copyrights, copyright registrations and applications for copyright registrations of the Obligors, including all renewals and extensions thereof, all rights to recover for past, present or future infringements thereof and all other rights whatsoever accruing thereunder or pertaining thereto (collectively, "***Copyrights***"), all patents and patent applications of the Obligors, including the inventions and improvements described and claimed therein together with the reissues, divisions, continuations, renewals, extensions and continuations in part thereof, all damages and payments for past or future infringements thereof and rights to sue therefor, and all rights corresponding thereto throughout the world and all income, royalties, damages and payments now or hereafter due and/or payable under or with respect thereto (collectively, "***Patents***"), and all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations of the Obligors, including all renewals of trademark and service mark registrations, all rights to recover for all past, present and future infringements thereof and all rights to sue therefor, and all rights corresponding thereto throughout the world (collectively, "***Trademarks***"), together, in each case, with the product lines and goodwill of the business connected with the use of, and symbolized by, each such trade name, trademark and service mark, together with (a) all inventions, processes, production methods, proprietary information, know-how, trade secrets, domain names and websites; (b) all licenses or user or other agreements granted by or to any Obligor with respect to any of the foregoing; (c) all information, customer lists, identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, materials standards, processing standards, performance standards, catalogs, computer and automatic machinery software and programs; (d) all field repair data, sales data and other information relating to sales or service of products now or hereafter manufactured; (e) all accounting information and all media in which or on which any information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; (f) all licenses, consents, permits, variances, certifications and approvals of governmental agencies now or hereafter held by any Obligor; (g) source codes, proprietary or confidential information, procedures, data bases, skill, expertise, experience, processes, models, materials, records and (h) all causes of action, claims and warranties now or hereafter owned or acquired by any Obligor in respect of any of the items listed above, in each case whether now or hereafter owned or used.

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

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

"***Non-Designated CRG Accounts***" means the Obligors' deposit accounts or securities accounts maintained by the ABL Lender that do not constitute the Designated CRG Account.

"***Obligors***" means the Borrower and each other obligor under either the CRG Credit Documents or the ABL Credit Documents.

"***Payoff Letter***" means that certain [Term Facility Payoff Letter], dated as of even date herewith, executed by the ABL Lender and the Borrower.

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

"***Senior Collateral***" means, (a) in the case of the ABL Lender, all ABL Senior Collateral and (b) in the case of CRG Agent, all CRG Senior Collateral.

"***UCC***" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect in the State of New York.

The following terms have the meanings given to them in the applicable UCC: "***chattel paper***," "***deposit account***," "***document***," "***equipment***," "***general intangible***," "***instrument***," "***proceeds***" and "***securities account***."

2. Security Interests.

(a) Upon receipt of the Payoff Amount (as defined in the Payoff Letter), (i) without further action by any person and notwithstanding anything to the contrary in the ABL Credit Documents, the ABL Lender agrees that any and all Liens in favor of the ABL Lender in the CRG Senior Collateral are hereby automatically released and discharged and of no further force or effect, and (ii) the ABL Lender agrees to provide CRG Agent with a UCC-3 Financing Statement Amendment (partial release) in the form attached as **Exhibit A** hereof, which shall release ABL Lender's security interest in the CRG Senior Collateral.

(b) Notwithstanding any contrary priority established by (w) the filing dates of their respective financing statements, (x) the recording dates of any other security perfection documents, (y) which Creditor has possession of, or control over, any of the Collateral or (z) any statute or rule of law or any provision of the Credit Documents (other than this Agreement) to the contrary, the Creditors agree that:

(i) CRG Creditors shall not have a Lien with respect to the ABL Senior Collateral;

(ii) the ABL Lender shall not have Lien with respect to the CRG Senior Collateral; and

(iii) the proceeds of collection of the Collateral shall be distributed as provided in **Section 4** below.

3. Consents. Each Creditor:

(a) acknowledges and consents to (i) the Obligors granting to the other Creditor a security interest in its respective Senior Collateral, (ii) the other Creditor filing any and all financing statements and other documents as reasonably deemed necessary by the other Creditor in order to perfect its security interest in its respective Senior Collateral, and (iii) the Obligors' entry into the Credit Documents to which the other Creditor is a party.

(b) acknowledges, agrees and covenants, subject to **Section 6**, that it shall not contest, challenge or dispute the validity, attachment, perfection, priority or enforceability of the other Creditor's security interest in its respective Senior Collateral, or the validity, priority or enforceability of the other Creditor's Claim.

4. Distribution of Proceeds of Collateral.

(a) After the occurrence and during the continuance of an Event of Default, all proceeds, including proceeds of any sale, exchange, collection, or other disposition of:

(i) ABL Senior Collateral shall be distributed first, to the ABL Lender, in an amount up to the amount of the ABL Lender's Claim; then to the Obligors; and

(ii) CRG Senior Collateral shall be distributed first, to CRG Agent, in an amount up to the amount of CRG Creditors' Claim; then, to the Obligors.

(b) In the event that, notwithstanding the foregoing, any Creditor shall, while an Event of Default has occurred and is continuing, receive any payment, distribution, security or proceeds consisting of assets constituting the other Creditor's Senior Collateral, such Creditor shall hold in trust, for such other Creditor, such payment, distribution, security or proceeds, and shall deliver to such other Creditor, in the form received (with any necessary endorsements or as a court of competent jurisdiction may otherwise direct) such payment, distribution, security or proceeds for application to such other Creditor's Claims in accordance with **Section 4(a)**.

(c) At all times other than while an Event of Default has occurred and is continuing, all proceeds including proceeds of any sale, exchange, collection, or other disposition of Collateral shall be distributed or applied, as applicable, in accordance with the CRG Credit Documents and the ABL Credit Documents.

(d) Except as expressly set forth herein, nothing in this **Section 4** shall obligate any Creditor (i) to sell, exchange, collect or otherwise dispose of Collateral at any time, or (ii) to take any action in violation of any stay imposed in connection with any Insolvency Proceeding, including without limitation the automatic stay in Section 362(a) of the Bankruptcy Code, nor shall any Creditor have any liability to the other arising from or in connection with such Creditor's failure to take such action.

5. Remedies. Each Creditor shall be free at all times to exercise or to refrain from exercising any and all rights and remedies it may have with respect to its Senior Collateral under the applicable Credit Documents or under applicable law.

6. Insolvency Proceedings.

(a) **Rights Continue**. In the event of any Obligor's insolvency, reorganization or any case, action or proceeding, commenced by or against any Obligor, under any bankruptcy or insolvency law or laws relating to the relief of debtors, including, without limitation, any voluntary or involuntary bankruptcy (including any case commenced under the Bankruptcy Code), insolvency, receivership, liquidation, dissolution, winding-up or other similar statutory or common law proceeding or arrangement involving any Obligor, the readjustment of its liabilities, any assignment for the benefit of its creditors, or any marshalling of its assets or liabilities (each, an "***Insolvency Proceeding***"), (i) this Agreement shall remain in full force and effect in accordance with Section 510(a) of the United States Bankruptcy Code, and (ii) the Collateral shall include, without limitation, all Collateral arising during or after any such Insolvency Proceeding (which Collateral shall be subject to the priorities set forth in this Agreement).

(b) **Proof of Claim, Sales and Plans**. At any meeting of creditors or in the event of any Insolvency Proceeding, each Creditor shall retain the right to vote, file a proof of claim and otherwise act with respect to its Claims (including the right to vote to accept or reject any plan of partial or complete liquidation, reorganization, arrangement, composition, or extension (a "***Plan***")); *provided*, that (i) no Creditor shall initiate, prosecute or participate in any claim or action in such Insolvency Proceeding directly or indirectly challenging the enforceability, validity, perfection or priority of the other Creditor's Claims, this Agreement, the Credit Documents, or any liens securing the other Creditor's Claims; and (ii) no Creditor shall propose any Plan or file or join in any motion or pleading in support of any motion or Plan or exercise any other voting rights unless such Plan provides for the treatment of the Creditors' claims in accordance with the terms of this Agreement, or that would otherwise impair the timely repayment of the other Creditor's Claims in accordance with its terms or impair or impede any rights of the other Creditor.

(c) **Finance and Sale Issues**. If any Obligor shall be subject to any Insolvency Proceeding and a Creditor shall desire to permit the use by such Obligor of cash collateral (as defined in Section 363(a) of the Bankruptcy Code, "***Cash Collateral***") constituting such Creditor's Senior Collateral or to permit such Obligor to obtain financing (including on a priming basis with respect to such Creditor's Senior Collateral), whether from such Creditor or any other third party under Section 362, 363 or 364 of the Bankruptcy Code or any other applicable law (each, a "***Post-Petition Financing***"), then the other Creditor shall not oppose or raise any objection to or contest (or join with or support any third party opposing, objecting to or contesting) such use of Cash Collateral or Post-Petition Financing and shall not request adequate protection or any other relief in connection therewith (except as specifically permitted under **Section 6(e)**); *provided*, *however*, that notwithstanding the foregoing, each Creditor shall be entitled to oppose, raise objection to, or contest (or join with or support any third party opposing, objecting to, or contesting) any such use of Cash Collateral or Post-Petition Financing if such proposed use of Cash Collateral or Post-Petition Financing would result in any liens on such Creditor's Senior Collateral to be subordinated to or *pari passu* with such Cash Collateral or Post-Petition Financing. Each Creditor agrees that it shall raise no objection to, and shall not oppose or contest (or join with or support any third party opposing, objecting to or contesting), (i) a sale, revesting or other disposition of the other Creditor's Senior Collateral free and clear of the other Creditors' liens or other Claims, whether under Sections 363 or 1141 of the Bankruptcy Code or other applicable law, if the other Creditor has consented to such sale or disposition of such assets, or (ii) any lawful exercise by the other Creditor of the right to credit bid such other Creditor's Claims at any sale in foreclosure of such other Creditor's Senior Collateral; *provided*, *however*, that notwithstanding the foregoing and for the avoidance of doubt, any Creditor shall be entitled to oppose, raise objection to, or contest (or join with or support any third party opposing, objecting to, or contesting) any sale, revesting or other disposition (including any credit bid) of any Collateral constituting its Senior Collateral free and clear of its liens or other Claims.

(d) [Reserved]

(e) **Adequate Protection**. Except to the extent provided in **Section 6(c)**, nothing in this Agreement shall limit the rights of CRG Creditors, on the one hand, and the ABL Lender, on the other hand, from seeking or requesting adequate protection with respect to their interests in the Collateral in any Insolvency Proceeding, including adequate protection in the form of a cash payment, periodic cash payments, cash payments of interest, additional collateral or otherwise; *provided*, that (i) in the event that the ABL Lender seeks or requests adequate protection in respect of the ABL Lender's Claims and such adequate protection is granted in the form of additional collateral comprising assets of the type of assets that constitute CRG Senior Collateral, then the ABL Lender agrees that CRG Agent shall also be granted a senior lien and security interest on such collateral as security for CRG Creditors' Claims and that any lien or security interest on such collateral securing the ABL Lender's Claims shall be subordinate to the liens and security interests on such collateral securing CRG Creditors' Claims, and (ii) in the event that CRG Agent seeks or requests adequate protection in respect of CRG Creditors' Claims and such adequate protection is granted in the form of additional collateral comprising assets of the type of assets that constitute ABL Senior Collateral, then CRG Agent agrees, on behalf of CRG Creditors, that the ABL Lender shall also be granted a senior lien and security interest on such collateral as security for the ABL Lender's Claims and that any lien or security interest on such collateral securing CRG Creditors' Claims shall be subordinate to the liens and security interests on such collateral securing the ABL Lender's Claims.

(f) **Post-Petition Interest**. Each Creditor shall not oppose or seek to challenge any claim by the other Creditor for allowance in any Insolvency Proceeding of Claims consisting of post-petition interest, fees or expenses; *provided*, that the treatment of such Claims are consistent with the Creditors' respective interests in the Collateral.

(g) **Separate Class**. Without limiting anything to the contrary contained herein or in the Credit Documents, each Creditor, acknowledges and agrees that (i) the grants of liens pursuant to the CRG Credit Documents and the ABL Credit Documents constitute two separate and distinct grants of liens, and (ii) because of, among other things, their differing rights in the Collateral, each Creditor's Claims are fundamentally different from the other's Claims and must be separately classified in any Plan proposed or adopted in an Insolvency Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the respective Claims of the Creditors in respect of the Collateral constitute only one secured claim (rather than separate classes of senior secured claims), then each Creditor, acknowledges and agrees (x) that all distributions shall be made as if there were separate classes of senior secured claims against the Obligors in respect of the Collateral, and (y) to turn over to the other Creditor amounts otherwise received or receivable by it in the manner described in **Section 4** to the extent necessary to effectuate the intent of this sentence.

(h) **Waiver**. Subject to **Section 6(e)**, Each Creditor, waives any claim it may hereafter have against the other Creditor arising out of the election by such other Creditor of the application to the claims of such other Creditor of Section 1111(b)(2) of the Bankruptcy Code, and/or out of any Cash Collateral or Post-Petition Financing arrangement or out of any grant of a lien in connection with the Collateral in any Insolvency Proceeding.

7. Notice of Default. Each Creditor shall, simultaneously with giving any notice of default or acceleration to the Obligors, use commercially reasonably efforts to provide to such other Creditor a copy of such notice of default or acceleration. The ABL Lender acknowledges and agrees that any Event of Default under the ABL Credit Documents shall be deemed to be an Event of Default under the CRG Credit Documents. CRG Agent acknowledges and agrees that any Event of Default under the CRG Credit Documents shall be deemed to be an Event of Default under the ABL Credit Documents. For the avoidance of doubt, nothing in this **Section 7** shall obligate any Creditor to provide any notice in violation of any stay imposed in connection with any Insolvency Proceeding, including without limitation the automatic stay in Section 362(a) of the Bankruptcy Code, nor shall any Creditor have any liability to the other arising from or in connection with such Creditor's failure to take such action.

8. [Reserved]

9. Credit Documents.

(a) Each Creditor represents and warrants that it has provided to the other true, correct and complete copies of all of its Credit Documents.

(b) At any time and from time to time, without notice to the other Creditor, each Creditor may take such actions with respect to its Claims as such Creditor, in its sole discretion, may deem appropriate, including, without limitation, terminating advances under its Credit Documents, increasing the principal amount, extending the time of payment, increasing the applicable interest rate, renewing, compromising or otherwise amending the terms of any documents affecting its Claims and any Collateral therefor, and enforcing or failing to enforce any rights against any Obligor or any other person, and no such action or inaction described in this sentence shall impair or otherwise affect such Creditor's rights hereunder; *provided*, *however*, that no Creditor shall take any action that is inconsistent with the provisions of this Agreement. Each Creditor, waives the benefits, if any, of any statutory or common law rule that may permit a subordinating creditor to assert any defenses of a surety or guarantor, or that may give the subordinating creditor the right to require a senior creditor to marshal assets, and each Creditor, agrees that it shall not assert any such defenses or rights.

10. Waiver of Right to Require Marshaling. Each Creditor, expressly waives any right that it otherwise might have to require any other Creditor to marshal assets or to resort to Collateral in any particular order or manner, whether provided for by common law or statute. No Creditor shall be required to enforce any guaranty or any security interest or lien given by any person or entity as a condition precedent or concurrent to the taking of any Enforcement Action with respect to the Collateral.

11. Representations and Warranties.

(a) Each Creditor represents and warrants to the other that (i) all action on the part of such Creditor, its officers, directors, partners, members and shareholders, as applicable, necessary for the authorization of this Agreement and the performance of all obligations of such Creditor hereunder has been taken; (ii) this Agreement constitutes the legal, valid and binding obligation of such Creditor, enforceable against such Creditor in accordance with its terms; and (iii) the execution, delivery and performance of and compliance with this Agreement by such Creditor will not result in any material violation or default of any term of any of such Creditor's charter, formation or other organizational documents (such as articles or certificate of incorporation, bylaws, partnership agreement, operating agreement, etc.) or violate any material applicable law, rule or regulation.

(b) CRG Agent represents and warrants that it has the authority to enter into this Agreement on behalf of and bind each CRG Creditor.

12. Disgorgement.

(a) If, at any time after payment in full of the ABL Lender's Claims any payments of the ABL Lender's Claims must be disgorged by the ABL Lender for any reason (including, without limitation, any Insolvency Proceeding), this Agreement and the relative rights and priorities set forth herein shall be reinstated as to all such disgorged payments as though such payments had not been made and CRG Creditors shall immediately pay over to the ABL Lender all money or funds received or retained by CRG Creditors with respect to the CRG Creditors' Claims to the extent that such receipt or retention would have been prohibited hereunder.

(b) If, at any time after payment in full of the CRG Creditors' Claims any payments of the CRG Creditors' Claims must be disgorged by any CRG Creditor for any reason (including, without limitation, any Insolvency Proceeding), this Agreement and the relative rights and priorities set forth herein shall be reinstated as to all such disgorged payments as though such payments had not been made and the ABL Lender shall immediately pay over to CRG Agent all money or funds received or retained by the ABL Lender with respect to the ABL Lender's Claims to the extent that such receipt or retention would have been prohibited hereunder.

13. No Responsibility for Investigation. Each of the Creditors represents that it has made, and agrees that it will continue to make its own independent investigation of the financial condition and affairs of the Obligors in connection with the making, administration and enforcement of its loans, and that it has made and shall continue to make its own appraisal of the creditworthiness of the Obligors. No Creditor shall have any duty or responsibility either initially or on a continuing basis to make any such investigation or any such appraisal on behalf of any other party, or to provide any other party with any credit or other information with respect thereto, whether coming into its possession before the date hereof or any time or times thereafter, and shall further have no responsibility with respect to the accuracy of or the completeness of the information provided to the Creditors by any Obligor.

14. No Benefit to Third Parties. The terms and provisions of this Agreement shall be for the sole benefit of Creditors, and their respective successors and assigns, and no other person or entity (including the Obligors) shall have any right, benefit, priority, or interest under, or because of this Agreement.

15. Successors and Assigns. This Agreement shall bind any successors or assignees of each Creditor. This Agreement shall remain effective until either (a) the ABL Lender's Claims are indefeasibly paid or otherwise satisfied in full and the ABL Lender has no commitment to extend additional credit under the ABL Credit Documents or (b) CRG Creditor's Claims are indefeasibly paid or otherwise satisfied in full and the CRG Creditors have no commitment to extend additional credit under the CRG Credit Documents. Each Creditor shall not sell, assign, pledge, dispose of or otherwise transfer all or any portion of its Claims or any of its Credit Documents, unless, prior to the consummation of any such action, the transferee thereof shall execute and deliver an agreement of such transferee to be bound hereby, or other instrument of assignment and assumption of the rights and obligations of the transferor hereunder.

16. Designated CRG Account; Identification of CRG Cash Collateral.

(a) The Obligors shall be permitted to maintain the Designated CRG Account and transfer CRG Cash Collateral to such account; *provided*, that, such account shall not, subject to **clause (c)** below, contain any ABL Senior Collateral.

(b) The ABL Lender, the Obligors and CRG Agent agree to negotiate in good faith a control agreement with respect to the Designated CRG Account.

(c) The Obligors agree to notify the ABL Lender and CRG Agent if any proceeds not constituting ABL Senior Collateral are inadvertently deposited into the Designated CRG Account and to promptly withdraw or transfer such proceeds out of the Designated CRG Account (and the CRG Agent hereby agrees to any such withdrawal or transfer).

17. Further Assurances. Each Creditor, agrees to execute such documents and/or take such further action as the other Creditor may at any time or times reasonably request in order to carry out the provisions and intent of this Agreement, including, without limitation, ratifications and confirmations of this Agreement from time to time hereafter, as and when requested by the other Creditor.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

19. Governing Law; Waiver of Jury Trial.

(a) This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed in accordance with, the law of the State of New York without regard to principles of conflicts of laws that would result in the application of the laws of any other jurisdiction.

(b) EACH CREDITOR WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN.

20. Entire Agreement. This Agreement represents the entire agreement with respect to the subject matter hereof, and supersedes all prior negotiations, agreements and commitments. Each Creditor is not relying on any representations by the other Creditor (except for those set forth herein), any Obligor or any other person in entering into this Agreement, and each Creditor has kept and will continue to keep itself fully apprised of the financial and other condition of the Obligors. This Agreement may be amended only by written instrument signed by each of the Creditors.

21. Relationship among Creditors. The relationship among the Creditors is, and at all times shall remain solely that of creditors of the Obligors. Creditors shall not under any circumstances be construed to be partners or joint venturers of one another; nor shall the Creditors under any circumstances be deemed to be in a relationship of confidence or trust or a fiduciary relationship with one another, or to owe any fiduciary duty to one another. Creditors do not undertake or assume any responsibility or duty to one another to select, review, inspect, supervise, pass judgment upon or otherwise inform each other of any matter in connection with the Obligors' property, any Collateral held by any Creditor or the operations of the Obligors. Each Creditor shall rely entirely on its own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by any Creditor in connection with such matters is solely for the protection of such Creditor.

22. Severability. Any provision of this Agreement which is illegal, invalid, prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent such illegality, invalidity, prohibition or unenforceability without invalidating or impairing the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

23. Notices. All notices, demands, instructions and other communications required or permitted to be given to or made upon any party hereto shall be in writing and shall be delivered or sent by first-class mail, postage prepaid, or by overnight courier or messenger service or by facsimile, message confirmed, and shall be deemed to be effective for purposes of this Agreement on the day that delivery is made or refused. Unless otherwise specified in a notice mailed or delivered in accordance with the foregoing sentence, notices, demands, instructions and other communications in writing shall be given to or made upon the respective parties hereto at their respective addresses and facsimile numbers indicated on the signature pages hereto.

[Signature pages follow.]

IN WITNESS WHEREOF, the undersigned have executed this Intercreditor Agreement as of the date first above written.

ABL LENDER:
[_____]

By: _____
Name:
Title:

Address for Notices:

[Signature Page to Intercreditor Agreement]

CRG AGENT:

By: _____
Nate Hukill
Authorized Signatory

Address for Notices:
1000 Main Street, Suite 2500
Houston, TX 77002
Attn: Portfolio Reporting
Tel: ***
Fax: ***
Email: notices@crglp.com

Acknowledged and Agreed to:

BORROWER:

TREACE MEDICAL CONCEPTS, INC.

By: _____
Name:
Title:

Address for Notices:
203 Fort Wade Road, Suite 150
Ponte Vedra, FL 32081
Attn: [_____]
Tel: [_____]
Fax: [_____]
Email: [_____]

Exhibit A

UCC-3 Financing Statement Amendment

(See Attached)

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (this "**Agreement**") dated as of April 18, 2018 (the "**Effective Date**") between **SILICON VALLEY BANK**, a California corporation ("**Bank**"), and **TREACE MEDICAL CONCEPTS, INC.**, a Delaware corporation ("**Borrower**"), provides the terms on which Bank shall lend to Borrower and Borrower shall repay Bank. The parties agree as follows:

1. ACCOUNTING AND OTHER TERMS

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

2. LOAN AND TERMS OF PAYMENT

2.1 Promise to Pay. Borrower hereby unconditionally promises to pay Bank the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon as and when due in accordance with this Agreement.

2.2 Revolving Line.

(a) Availability. Subject to the terms and conditions of this Agreement, Bank shall make Advances not exceeding the Availability Amount. Amounts borrowed under the Revolving Line may be repaid and, prior to the Revolving Line Maturity Date, reborrowed, subject to the applicable terms and conditions precedent herein.

(b) Termination; Repayment. The Revolving Line terminates on the Revolving Line Maturity Date, when the principal amount of all Advances, the unpaid interest thereon, and all other Obligations relating to the Revolving Line shall be immediately due and payable.

2.3 Overadvances. If, at any time, the outstanding principal amount of any Advances exceeds the lesser of either (a) the Revolving Line or (b) the aggregate of (i) the Borrowing Base plus (ii) the Non-Formula Amount, Borrower shall immediately pay to Bank in cash the amount of such excess (such excess, the "**Overadvance**"). Without limiting Borrower's obligation to repay Bank any Overadvance, Borrower agrees to pay Bank interest on the outstanding amount of any Overadvance, on demand, at a per annum rate equal to the rate that is otherwise applicable to Advances plus four percent (4.0%).

2.4 Payment of Interest on the Credit Extensions.

(a) Interest Rate. Subject to Section 2.4(b), the principal amount outstanding under the Revolving Line shall accrue interest at a floating per annum rate equal to one percent (1.00%) above the Prime Rate, which interest shall be payable monthly in accordance with Section 2.4(d) below.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is four percent (4.0%) above the rate that is otherwise applicable thereto (the "**Default Rate**"). Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Bank Expenses) but are not paid when due shall bear interest until paid at a rate equal to the highest rate applicable to the Obligations. Payment or acceptance of the increased interest rate provided in this Section 2.4(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Bank.

(c) Adjustment to Interest Rate. Changes to the interest rate of any Credit Extension based on changes to the Prime Rate shall be effective on the effective date of any change to the Prime Rate and to the extent of any such change.

(d) Payment; Interest Computation. Interest is payable monthly on the Payment Date of each month and shall be computed on the basis of a 360-day year for the actual number of days elapsed. In computing interest, (i) all payments received after 2:00 p.m. Eastern time on any day shall be deemed received at the opening of business on the next Business Day, and (ii) the date of the making of any Credit Extension shall be included and the date of payment shall be excluded; provided, however, that if any Credit Extension is repaid on the same day on which it is made, such day shall be included in computing interest on such Credit Extension.

2.5 Fees. Borrower shall pay to Bank;

(a) Revolving Line Commitment Fee. A fully earned, non-refundable commitment fee of Fifty Thousand Dollars ($50,000.00) (the "**Revolving Line Commitment Fee**"), shall be fully earned as of the Effective Date and is due and payable as follows:

(i) Twenty-Five Thousand Dollars ($25,000.00) on the Effective Date; and

(ii) Twenty-Five Thousand Dollars ($25,000.00) on the earlier to occur of (i) the first (1st) anniversary of the Effective Date, or (ii) the termination of the Revolving Line or termination of this Agreement;

(b) Termination Fee. Upon termination of this Agreement or the termination of the Revolving Line for any reason prior to the first (1st) anniversary of the Effective Date, in addition to the payment of any other amounts then-owing, a termination fee in an amount equal to one percent (1.0%) of the Revolving Line (the "**Termination Fee**"), provided that no Termination Fee shall be charged if the credit facility hereunder is replaced with a new facility from Bank; and

(c) Bank Expenses. All Bank Expenses (including reasonable and documented attorneys' fees and expenses for documentation and negotiation of this Agreement) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Bank).

Unless otherwise provided in this Agreement or in a separate writing by Bank, Borrower shall not be entitled to any credit, rebate, or repayment of any fees earned by Bank pursuant to this Agreement notwithstanding any termination of this Agreement or the suspension or termination of Bank's obligation to make loans and advances hereunder. Bank may deduct amounts owing by Borrower under the clauses of this Section 2.5 pursuant to the terms of Section 2.6(c). Bank shall provide Borrower written notice of deductions made from the Designated Deposit Account pursuant to the terms of the clauses of this Section 2.5.

2.6 Payments; Application of Payments; Debit of Accounts.

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 2:00 p.m. Eastern time on the date when due. Payments of principal and/or interest received after 2:00 p.m. Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.

(b) Bank has the exclusive right to determine the order and manner in which all payments with respect to the Obligations may be applied. Borrower shall have no right to specify the order or the accounts to which Bank shall allocate or apply any payments required to be made by Borrower to Bank or otherwise received by Bank under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

(c) Bank may debit any of Borrower's deposit accounts, including the Designated Deposit Account, for principal and interest payments or any other amounts Borrower owes Bank when due. These debits shall not constitute a set-off.

2.7 Withholding. Payments received by Bank from Borrower under this Agreement will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to Bank, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, Bank receives a net sum equal to the sum which it would have received had no withholding or deduction been required, and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority. Borrower will, upon request, furnish Bank with proof reasonably satisfactory to Bank indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.7 shall survive the termination of this Agreement.

3. CONDITIONS OF LOANS

3.1 Conditions Precedent to Initial Credit Extension. Bank's obligation to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, such documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate, including, without limitation:

(a) duly executed signatures to the Loan Documents;

(b) the Operating Documents and long-form good standing certificates of Borrower certified by the Secretary of State of the State of Delaware and Secretary of State of the State of Florida, each as of a date no earlier than thirty (30) days prior to the Effective Date;

(c) a secretary's certificate of Borrower with respect to such Borrower's Operating Documents, incumbency, specimen signatures and resolutions authorizing the execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(d) duly executed signatures to the completed Borrowing Resolutions for Borrower;

(e) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;

(f) the Perfection Certificate of Borrower, together with the duly executed signature thereto;

(g) a landlord's consent in favor of Bank for each of Borrower's leased locations, by the respective landlord thereof, together with the duly executed signatures thereto;

(h) evidence satisfactory to Bank that the insurance policies and endorsements required by Section 6.7 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank;

(i) the completion of the Initial Audit;

(j) a completed Borrowing Base Report (and any schedules related thereto and including any other information requested by Bank with respect to Borrower's Accounts); and

(k) payment of the fees and Bank Expenses then due as specified in Section 2.5 hereof.

3.2 Conditions Precedent to all Credit Extensions. Bank's obligations to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) timely receipt of the Credit Extension request and any materials and documents required by Section 3.4;

(b) the representations and warranties in this Agreement shall be true, accurate, and complete in all material respects on the date of the proposed Credit Extension and on the Funding Date of each Credit Extension; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, and no Event of Default shall have occurred and be continuing or result from the Credit Extension. Each Credit Extension is Borrower's representation and warranty on that date that the representations and warranties in this Agreement remain true, accurate, and complete in all material respects; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; and

(c) Bank determines to its reasonable satisfaction that there has not been any material impairment in the general affairs, management, results of operation, financial condition or the prospect of repayment of the Obligations, nor any material adverse deviation by Borrower from the most recent business plan of Borrower presented to and accepted by Bank.

3.3 Covenant to Deliver. Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

3.4 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of an Advance set forth in this Agreement, to obtain an Advance, Borrower (via an individual duly authorized by an Administrator) shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 p.m. Eastern time on the Funding Date of the Advance. Such notice shall be made by Borrower through Bank's online banking program, provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Advances. In connection with any such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program such reports and information, including without limitation, sales journals, cash receipts journals, accounts receivable aging reports, as Bank may request in its sole discretion. Bank shall credit proceeds of an Advance to the Designated Deposit Account. Bank may make Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Advances are necessary to meet Obligations which have become due.

4. CREATION OF SECURITY INTEREST

4.1 Grant of Security Interest. Borrower hereby grants Bank, to secure the payment and performance in full of all of the Obligations, a continuing security interest in, and pledges to Bank, the Collateral, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof.

Borrower acknowledges that it previously has entered, and/or may in the future enter, into Bank Services Agreements with Bank. Regardless of the terms of any Bank Services Agreement, Borrower agrees that any amounts Borrower owes Bank thereunder shall be deemed to be Obligations hereunder and that it is the intent of Borrower and Bank to have all such Obligations secured by the first priority perfected security interest in the Collateral granted herein (subject only to Permitted Liens that are permitted pursuant to the terms of this Agreement to have superior priority to Bank's Lien in this Agreement).

If this Agreement is terminated, Bank's Lien in the Collateral shall continue until the Obligations (other than inchoate indemnity obligations) are repaid in full in cash. Upon payment in full in cash of the Obligations (other than inchoate indemnity obligations) and at such time as Bank's obligation to make Credit Extensions has terminated, Bank shall, at the sole cost and expense of Borrower, release its Liens in the Collateral and all rights therein shall revert to Borrower. In the event (x) all Obligations (other than inchoate indemnity obligations), except for Bank Services, are satisfied in full, and (y) this Agreement is terminated, Bank shall terminate the security interest granted herein upon Borrower providing cash collateral acceptable to Bank in its good faith business judgment for Bank Services, if any. In the event such Bank Services consist of outstanding Letters of Credit, Borrower shall provide to Bank cash collateral in an amount equal to (x) if such Letters of Credit are denominated in Dollars, then at least one hundred five percent (105.0%); and (y) if such Letters of Credit are denominated in a Foreign Currency, then at least one hundred ten percent (110.0%), of the Dollar Equivalent of the face amount of all such Letters of Credit plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment), to secure all of the Obligations relating to such Letters of Credit.

4.2 Priority of Security Interest. Borrower represents, warrants, and covenants that the security interest granted herein is and shall at all times continue to be a first priority perfected security interest in the Collateral. The Collateral may also be subject to Permitted Liens. If Borrower shall acquire a commercial tort claim, Borrower shall promptly notify Bank in a writing signed by Borrower of the general details thereof and grant to Bank in such writing a security interest therein and in the proceeds thereof, all upon the terms of this Agreement, with such writing to be in form and substance reasonably satisfactory to Bank.

4.3 Authorization to File Financing Statements. Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code. Such financing statements may indicate the Collateral as "all assets of the Debtor" or words of similar effect, or as being of an equal or lesser scope, or with greater detail, all in Bank's discretion.

5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants as follows:

5.1 Due Organization, Authorization; Power and Authority. Borrower is duly existing and in good standing as a Registered Organization in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. In connection with this Agreement, Borrower has delivered to Bank a completed certificate signed by Borrower, entitled "Perfection Certificate" (the "**Perfection Certificate**"). Borrower represents and warrants to Bank that (a) Borrower's exact legal name is that indicated on the Perfection Certificate and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the Perfection Certificate; (c) the Perfection Certificate accurately sets forth Borrower's organizational identification number or accurately states that Borrower has none; (d) the Perfection Certificate accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction (except that the Borrower converted from a limited liability company organized in Florida under the name Treace Medical Concepts, LLC to a corporation incorporated in Delaware on July 1, 2014); and (f) all other information set forth on the Perfection Certificate pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Perfection Certificate after the Effective Date to the extent permitted by one or more specific provisions in this Agreement). If Borrower is not now a Registered Organization but later becomes one, Borrower shall promptly notify Bank of such occurrence and provide Bank with Borrower's organizational identification number.

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect or such filings as required to perfect security interests granted in the Collateral), or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

5.2 Collateral. Borrower has good title to, rights in, and the power to transfer each item of the Collateral upon which it purports to grant a Lien hereunder, free and clear of any and all Liens except Permitted Liens. Borrower has no Collateral Accounts at or with any bank or financial institution other than Bank or Bank's Affiliates except for the Collateral Accounts described in the Perfection Certificate delivered to Bank in connection herewith and which Borrower has taken such actions as are necessary to give Bank a perfected security interest therein, pursuant to the terms of Section 6.8(b). The Accounts are bona fide, existing obligations of the Account Debtors.

The Collateral is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in the Perfection Certificate. None of the components of the Collateral shall be maintained at locations other than as provided in the Perfection Certificate or as permitted pursuant to Section 7.2.

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

Borrower is the sole owner of the Intellectual Property which it owns or purports to own except for (a) non-exclusive licenses granted to its customers in the ordinary course of business, (b) over-the-counter software that is commercially available to the public, and (c) material Intellectual Property licensed to Borrower and noted on the Perfection Certificate. To the best of Borrower's knowledge, each Patent which it owns or purports to own and which is material to Borrower's business is valid and enforceable, and no part of the Intellectual Property which Borrower owns or purports to own and which is material to Borrower's business has been judged invalid or unenforceable, in whole or in part. To the best of Borrower's knowledge, no claim has been made that any part of the Intellectual Property violates the rights of any third party except to the extent such claim would not reasonably be expected to have a material adverse effect on Borrower's business.

Except as noted on the Perfection Certificate, Borrower is not a party to, nor is it bound by, any Restricted License.

5.3 Accounts Receivable.

(a) For each Account with respect to which Advances are requested, on the date each Advance is requested and made, such Account shall be an Eligible Account.

(b) All statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing the Eligible Accounts are and shall be true and correct and all such invoices, instruments and other documents, and all of Borrower's Books are genuine and in all respects what they purport to be. All sales and other transactions underlying or giving rise to each Eligible Account shall comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are Eligible Accounts in any Borrowing Base Report. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms.

5.4 Litigation. There are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, One Hundred Thousand Dollars ($100,000.00).

5.5 Financial Statements; Financial Condition. All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Bank fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations. There has not been any material deterioration in Borrower's consolidated financial condition since the date of the most recent financial statements submitted to Bank.

5.6 Solvency. The fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of Borrower's liabilities; Borrower is not left with unreasonably small capital after the transactions in this Agreement; and Borrower is able to pay its debts (including trade debts) as they mature.

5.7 Regulatory Compliance. Borrower is not an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Borrower is not engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower (a) has complied in all material respects with all Requirements of Law, and (b) has not violated any Requirements of Law the violation of which could reasonably be expected to have a material adverse effect on its business. None of Borrower's or any of its Subsidiaries' properties or assets has been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than legally. Borrower and each of its Subsidiaries have obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted.

5.8 Subsidiaries; Investments. Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

5.9 Tax Returns and Payments; Pension Contributions. Borrower has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor, or (b) if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed Ten Thousand Dollars ($10,000.00).

To the extent Borrower defers payment of any contested taxes, Borrower shall (i) notify Bank in writing of the commencement of, and any material development in, the proceedings, and (ii) post bonds or take any other steps required to prevent the Governmental Authority levying such contested taxes from obtaining a Lien upon any of the Collateral that is other than a "Permitted Lien." Borrower is unaware of any claims or adjustments proposed for any of Borrower's prior tax years which could result in additional taxes becoming due and payable by

Borrower in excess of Ten Thousand Dollars ($10,000.00). Borrower has paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and Borrower has not withdrawn from participation in, and has not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

5.10 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions as working capital and to fund its general business requirements and not for personal, family, household or agricultural purposes.

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

5.12 Definition of "Knowledge." For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's knowledge or awareness, to the "best of" Borrower's knowledge, or with a similar qualification, knowledge or awareness means the actual knowledge, after reasonable investigation, of any Responsible Officer.

6. <u>AFFIRMATIVE COVENANTS</u>

Borrower shall do all of the following:

6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower's business or operations; provided any Subsidiary may merge with and into Borrower or any other Subsidiary. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Bank in all of its property. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Bank.

6.2 Financial Statements, Reports, Certificates. Provide Bank with the following:

(a) a Borrowing Base Report (and any schedules related thereto and including any other information requested by Bank with respect to Borrower's Accounts) within thirty (30) days after the end of each month;

(b) within thirty (30) days after the end of each month, (i) monthly accounts receivable agings, aged by invoice date, (ii) monthly accounts payable agings, aged by invoice date, and outstanding or held check registers, if any, (iii) monthly reconciliations of accounts receivable agings (aged by invoice date), transaction reports, and general ledger, and (iv) monthly perpetual inventory reports for Inventory valued on a first-in, first-out basis at the lower of cost or market (in accordance with GAAP) or such other inventory reports as are requested by Bank in its good faith business judgment;

(c) as soon as available, but no later than thirty (30) days after the last day of each month, a company prepared consolidated balance sheet and income statement covering Borrower's consolidated operations for such month certified by a Responsible Officer and in a form acceptable to Bank (the "**Monthly Financial Statements**");

(d) within thirty (30) days after the last day of each month and together with the Monthly Financial Statements, a duly completed Compliance Certificate signed by a Responsible Officer, in the form attached hereto as Exhibit B, certifying that as of the end of such month, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth calculations showing compliance with the financial covenants set forth in this Agreement;

(e) as soon as available, and in any event within thirty (30) days after the end of each fiscal year of Borrower, and contemporaneously with any updates or amendments thereto, (i) annual operating budgets (including income statements, balance sheets and cash flow statements, by month), and (ii) annual financial projections (on a quarterly basis), in each case as approved by the Board, together with any related business forecasts used in the preparation of such annual financial projections;

(f) as soon as available, and in any event within one hundred fifty (150) days following the end of Borrower's fiscal year, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Bank;

(g) in the event that Borrower becomes subject to the reporting requirements under the Exchange Act, within five (5) days of filing, copies of all periodic and other reports, proxy statements and other materials filed by Borrower and/or any Guarantor with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to its shareholders, as the case may be. Documents required to be delivered pursuant to the terms hereof (to the extent any such 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 Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address; provided, however, Borrower shall promptly notify Bank in writing (which may be by electronic mail) of the posting of any such documents;

(h) within five (5) days of delivery, copies of all statements, reports and notices made available to Borrower's security holders or to any holders of Subordinated Debt;

(i) prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, One Hundred Thousand Dollars ($100,000.00) or more; and

(j) promptly, from time to time, such other information regarding Borrower or compliance with the terms of any Loan Documents as reasonably requested by Bank.

6.3 Accounts Receivable.

(a) Schedules and Documents Relating to Accounts. Borrower shall deliver to Bank transaction reports and schedules of collections, as provided in Section 6.2, on Bank's standard forms; provided, however, that Borrower's failure to execute and deliver the same shall not affect or limit Bank's Lien and other rights in all of Borrower's Accounts, nor shall Bank's failure to advance or lend against a specific Account affect or limit Bank's Lien and other rights therein. If requested by Bank, Borrower shall furnish Bank with copies (or, at Bank's reasonable request, originals) of all contracts, orders, invoices, and other similar documents, and all shipping instructions, delivery receipts, bills of lading, and other evidence of delivery, for any goods the sale or disposition of which gave rise to such Accounts. In addition, Borrower shall deliver to Bank, on its request, the originals of all instruments, chattel paper, security agreements, guarantees and other documents and property evidencing or securing any Accounts, in the same form as received, with all necessary indorsements, and copies of all credit memos.

(b) Disputes. Borrower shall promptly notify Bank of all disputes or claims relating to Accounts in an amount, individually or in the aggregate, in excess of One Hundred Thousand Dollars ($100,000.00). Borrower may forgive (completely or partially), compromise, or settle any Account for less than payment in full, or agree to do any of the foregoing so long as (i) Borrower does so in good faith, in a commercially reasonable manner, in the ordinary course of business, in arm's-length transactions, and reports the same to Bank in the regular reports provided to Bank; (ii) no Event of Default has occurred and is continuing; and (iii) after taking into account all such discounts, settlements and forgiveness, the total outstanding Advances will not exceed the lesser of either (a) the Revolving Line or (b) the aggregate of (i) the Borrowing Base plus (ii) the Non-Formula Amount.

(c) Collection of Accounts. Borrower shall direct Account Debtors to deliver or transmit all proceeds of Accounts into a lockbox account, or such other "blocked account" as specified by Bank (either such account, the "**Cash Collateral Account**"). Whether or not an Event of Default has occurred and is continuing, Borrower shall immediately deliver all payments on and proceeds of Accounts to the Cash Collateral Account. Subject to Bank's right to maintain a reserve pursuant to Section 6.3(d), so long as no Event of Default exists, all amounts received in the Cash Collateral Account shall be transferred on a daily basis to Borrower's operating account with Bank. Borrower hereby authorizes Bank to transfer to the Cash Collateral Account any amounts that Bank reasonably determines are proceeds of the Accounts (provided that Bank is under no obligation to do so and this allowance shall in no event relieve Borrower of its obligations hereunder).

(d) Reserves. Notwithstanding any terms in this Agreement to the contrary, at times when an Event of Default exists, Bank may hold any proceeds of the Accounts and any amounts in the Cash Collateral Account that are not applied to the Obligations pursuant to Section 6.3(c) above as a reserve to be applied to any Obligations regardless of whether such Obligations are then due and payable.

(e) Returns. Provided no Event of Default has occurred and is continuing, if any Account Debtor returns any Inventory to Borrower, Borrower shall promptly (i) determine the reason for such return, (ii) issue a credit memorandum to the Account Debtor in the appropriate amount, and (iii) provide a copy of such credit memorandum to Bank, upon request from Bank. In the event any attempted return occurs after the occurrence and during the continuance of any Event of Default, Borrower shall hold the returned Inventory in trust for Bank, and immediately notify Bank of the return of the Inventory.

(f) Verifications; Confirmations; Credit Quality; Notifications. Bank may, from time to time, (i) verify and confirm directly with the respective Account Debtors the validity, amount and other matters relating to the Accounts, either in the name of Borrower or Bank or such other name as Bank may choose, and notify any Account Debtor of Bank's security interest in such Account and/or (ii) conduct a credit check of any Account Debtor to approve any such Account Debtor's credit. Notwithstanding the foregoing, while no Event of Default has occurred and is continuing, Bank will notify Borrower prior to making direct contact with an Account Debtor.

(g) No Liability. Bank shall not be responsible or liable for any shortage or discrepancy in, damage to, or loss or destruction of, any goods, the sale or other disposition of which gives rise to an Account, or for any error, act, omission, or delay of any kind occurring in the settlement, failure to settle, collection or failure to collect any Account, or for settling any Account in good faith for less than the full amount thereof, nor shall Bank be deemed to be responsible for any of Borrower's obligations under any contract or agreement giving rise to an Account. Nothing herein shall, however, relieve Bank from liability for its own gross negligence or willful misconduct.

6.4 Remittance of Proceeds. Except as otherwise provided in Section 6.3(c), deliver, in kind, all proceeds arising from the disposition of any Collateral to Bank in the original form in which received by Borrower not later than the following Business Day after receipt by Borrower, to be applied to the Obligations (a) prior to an Event of Default, pursuant to the terms of Section 6.3(c) hereof, and (b) after the occurrence and during the continuance of an Event of Default, pursuant to the terms of Section 9.4 hereof; provided that, if no Event of Default has occurred and is continuing, Borrower shall not be obligated to remit to Bank the proceeds of the sale of worn out or obsolete Equipment disposed of by Borrower in good faith in an arm's length transaction for an aggregate purchase price of Fifty Thousand Dollars ($50,000.00) or less (for all such transactions in any fiscal year). Borrower agrees that it will not commingle proceeds of Collateral with any of Borrower's other funds or property, but will hold such proceeds separate and apart from such other funds and property and in an express trust for Bank. Nothing in this Section 6.4 limits the restrictions on disposition of Collateral set forth elsewhere in this Agreement.

6.5 Taxes; Pensions. Timely file, and require each of its Subsidiaries to timely file, all required tax returns and reports and timely pay, and require each of its Subsidiaries to timely pay, all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.9 hereof, and shall deliver to Bank, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

6.6 Access to Collateral; Books and Records. At reasonable times and during regular business hours, on five (5) Business Day's notice (provided no notice is required if an Event of Default has occurred and is continuing), Bank, or its agents, shall have the right to inspect the Collateral and the right to audit and copy Borrower's Books. The foregoing inspections and audits shall be conducted no more often than two (2) times during any twelve (12) month period, unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Bank shall determine is necessary. The foregoing inspections and audits shall be conducted at Borrower's expense and the charge therefor shall be One Thousand Dollars ($1,000.00) per person per day (or such higher amount as shall represent Bank's then-current standard charge for the same), plus reasonable out-of-pocket expenses. In the event Borrower and Bank schedule an audit more than ten (10) days in advance, and Borrower cancels or seeks to or reschedules the audit with less than ten (10) days written notice to Bank, then (without limiting any of Bank's rights or remedies) Borrower shall pay Bank a fee of One Thousand Dollars ($1,000.00) plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling.

6.7 Insurance.

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry, location and which have a similar scale of operations, and as Bank may reasonably request. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are reasonably satisfactory to Bank. All property policies shall have a lender's loss payable endorsement showing Bank as lender loss payee. All liability policies shall show, or have endorsements showing, Bank as an additional insured. Bank shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral.

(b) Ensure that proceeds payable under any property policy are, at Bank's option, payable to Bank on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy up to One Hundred Thousand Dollars ($100,000.00) with respect to any loss, but not exceeding Two Hundred Thousand Dollars ($200,000.00) in the aggregate for all losses under all casualty policies in any one year, toward the replacement or repair

of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Bank has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Bank, be payable to Bank on account of the Obligations.

(c) At Bank's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.7 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Bank, that it will give Bank thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled. If Borrower fails to obtain insurance as required under this Section 6.7 or to pay any amount or furnish any required proof of payment to third persons and Bank, Bank may make all or part of such payment or obtain such insurance policies required in this Section 6.7, and take any action under the policies Bank deems prudent.

6.8 Accounts.

(a) After the expiration of the Transition Period, maintain its and all of its Subsidiaries' operating and other deposit accounts, the Cash Collateral Account and securities/investment accounts with Bank and Bank's Affiliates. In addition, Borrower shall use Bank and Bank's Affiliates for all cash management and letters of credit banking. Further, Borrower will use its best efforts to use Bank and Bank's Affiliates for all business credit card banking, including Borrower's existing credit card banking currently serviced by American Express. Any Guarantor shall maintain all depository, operating and securities/investment accounts with Bank and Bank's Affiliates.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any Collateral Account at or with any bank or financial institution other than Bank or Bank's Affiliates. For each Collateral Account that Borrower at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Bank's Lien in such Collateral Account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply (i) prior to the expiration of the Transition Period or (ii) to deposit accounts exclusively used for payroll, payroll taxes, and other employee wage and benefit payments to or for the benefit of Borrower's employees and identified to Bank by Borrower as such.

6.9 Financial Covenant – Minimum Remaining Monthly Liquidity. Commencing with the monthly period ending February 28, 2018 and as of the last day of each monthly period ending thereafter, in each case measured on an average trailing three month basis, achieve Remaining Months Liquidity of at least six (6) months.

6.10 Protection of Intellectual Property Rights.

(a) (i) Protect, defend and maintain the validity and enforceability of its Intellectual Property; (ii) promptly advise Bank in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of its Intellectual Property; and (iii) not allow any Intellectual Property material to Borrower's business to be abandoned, forfeited or dedicated to the public without Bank's written consent.

(b) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public). Borrower shall take such reasonably commercial steps as Bank may reasonably request to obtain the consent of, or waiver by, any person whose consent or waiver is necessary for (i) any Restricted License to be deemed "Collateral" and for Bank to have a security interest in it that might otherwise be restricted or prohibited by law or by the terms of any such Restricted License, whether now existing or entered into in the future, and (ii) Bank to have the ability in the event of a liquidation of any Collateral to dispose of such Collateral in accordance with Bank's rights and remedies under this Agreement and the other Loan Documents.

6.11 Litigation Cooperation. From the date hereof and continuing through the termination of this Agreement, make available to Bank, without expense to Bank, Borrower and its officers, employees and agents and Borrower's books and records, to the extent that Bank may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Bank with respect to any Collateral or relating to Borrower.

6.12 Online Banking.

(a) Utilize Bank's online banking platform for all matters requested by Bank which shall include, without limitation (and without request by Bank for the following matters), uploading information pertaining to Accounts and Account Debtors, requesting approval for exceptions, requesting Credit Extensions, and uploading financial statements and other reports required to be delivered by this Agreement (including, without limitation, those described in Section 6.2 of this Agreement).

(b) Comply with the terms of the "Banking Terms and Conditions" and ensure that all persons utilizing the online banking platform are duly authorized to do so by an Administrator. Bank shall be entitled to assume the authenticity, accuracy and completeness on any information, instruction or request for a Credit Extension submitted via the online banking platform and to further assume that any submissions or requests made via the online banking platform have been duly authorized by an Administrator.

6.13 Further Assurances. Execute any further instruments and take further action as Bank reasonably requests to perfect or continue Bank's Lien in the Collateral or to effect the purposes of this Agreement. Deliver to Bank, within five (5) days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a material effect on any of the Governmental Approvals or otherwise on the operations of Borrower or any of its Subsidiaries.

7. NEGATIVE COVENANTS

Borrower shall not do any of the following without Bank's prior written consent:

7.1 Dispositions. Borrower shall not do any of the following without Bank's prior written consent, which consent shall not be unreasonably withheld: convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of Inventory in the ordinary course of business; (b) of worn-out or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (e) consisting of Borrower's use or transfer of money or Cash Equivalents in the ordinary course of its business for the payment of ordinary course business expenses in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents; and (f) of

non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business.

7.2 Changes in Business, Management, Control, or Business Locations. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve (other than Borrower may liquidate or dissolve into any other Borrower or any Subsidiary (that is a Borrower) and any Subsidiary may liquidate or dissolve into any other Subsidiary or into any Borrower); (c) fail to provide notice to Bank of any Key Person departing from or ceasing to be employed by Borrower within five (5) days after such Key Person's departure from Borrower; or (d) permit or suffer any Change in Control.

Borrower shall not, without at least thirty (30) days prior written notice to Bank: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than Fifty Thousand Dollars ($50,000.00) in Borrower's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of Fifty Thousand Dollars ($50,000.00) to a bailee at a location other than to a bailee and at a location already disclosed in the Perfection Certificate, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of Fifty Thousand Dollars ($50,000.00) to a bailee, and Bank and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which Borrower intends to deliver the Collateral, then Borrower will first receive the written consent of Bank, and such bailee shall execute and deliver a bailee agreement in form and substance satisfactory to Bank.

7.3 Mergers or Acquisitions. Borrower shall not do any of the following without Bank's prior written consent, which consent shall not be unreasonably withheld: merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (including, without limitation, by the formation of any Subsidiary), without the prior written consent of Bank. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

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

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

7.6 Maintenance of Collateral Accounts. Maintain any Collateral Account except pursuant to the terms of Section 6.8(b) hereof.

7.7 Distributions; Investments. Borrower shall not do any of the following without Bank's prior written consent, which consent shall not be unreasonably withheld: (a) pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock provided that (i) Borrower may convert any of its convertible securities into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof, (ii) Borrower may pay dividends solely in common stock; and (iii) Borrower may repurchase the stock of former employees or consultants pursuant to stock repurchase agreements so long as an Event of Default does not exist at the time of such repurchase and would not exist after giving effect to such repurchase, provided such repurchase does not exceed in the aggregate of Five Hundred Thousand Dollars ($500,000.00) per fiscal year; or (b) directly or indirectly make any Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

7.9 Subordinated Debt. (a) Make or permit any payment on any Subordinated Debt, except under the terms of the subordination, intercreditor, or other similar agreement to which such Subordinated Debt is subject, or (b) amend any provision in any document relating to the Subordinated Debt which would increase the amount thereof, provide for earlier or greater principal, interest, or other payments thereon, or adversely affect the subordination thereof to Obligations owed to Bank.

7.10 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in

Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a material adverse effect on Borrower's business, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other governmental agency.

8. EVENTS OF DEFAULT

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

8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Revolving Line Maturity Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);

8.2 Covenant Default.

(a) Borrower fails or neglects to perform any obligation in Sections 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, or 6.12 or violates any covenant in Section 7; or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Cure periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in in clause (a) above;

8.3 Material Adverse Change. A Material Adverse Change occurs;

8.4 Attachment; Levy; Restraint on Business.

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); provided, however, no Credit Extensions shall be made during any ten (10) day cure period; or

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

8.5 Insolvency. (a) Borrower or any of its Subsidiaries is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and is not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while any of the conditions described in clause (a) exist and/or until any Insolvency Proceeding is dismissed);

8.6 Other Agreements. There is, under any agreement to which Borrower or any Guarantor is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of One Hundred Thousand Dollars ($100,000.00); or (b) any breach or default by Borrower or Guarantor, the result of which could have a material adverse effect on Borrower's or any Guarantor's business;

8.7 Judgments; Penalties. One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least One Hundred Thousand Dollars ($100,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay (provided that no Credit Extensions will be made prior to the satisfaction, payment, discharge, stay, or bonding of such fine, penalty, judgment, order or decree);

8.8 Misrepresentations. Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Bank or to induce Bank to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

8.9 Subordinated Debt. Any document, instrument, or agreement evidencing any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement or any applicable subordination or intercreditor agreement;

8.10 Guaranty. (a) Any guaranty of any Obligations terminates or ceases for any reason to be in full force and effect; (b) any Guarantor does not perform any obligation or covenant under any guaranty of the Obligations, subject to any cure period contained therein, if any; (c) any circumstance described in Sections 8.3, 8.4, 8.5, 8.6, 8.7, or 8.8 of this Agreement occurs with respect to any Guarantor, (d) the death, liquidation, winding up, or termination of existence of any Guarantor; or (e) (i) a material impairment in the perfection or priority of Bank's Lien in the collateral provided by Guarantor or in the value of such collateral or (ii) a material adverse change in the general affairs, management, results of operation, condition (financial or otherwise) or the prospect of repayment of the Obligations occurs with respect to any Guarantor; or

8.11 Governmental Approvals. Any Governmental Approval shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) causes, or could reasonably be expected to cause, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction in a manner that causes, or could reasonably be expected to cause, a material adverse effect on Borrower's business.

9. BANK'S RIGHTS AND REMEDIES

9.1 Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Bank may, without notice or demand, do any or all of the following:

(a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.5 occurs all Obligations are immediately due and payable without any action by Bank);

(b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Bank;

(c) for any Letters of Credit, demand that Borrower (i) deposit cash with Bank in an amount equal to at least (A) one hundred five percent (105.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in Dollars remaining undrawn, and (B) one hundred ten percent (110.0%) of the Dollar Equivalent of the aggregate face amount of all Letters of Credit denominated in a Foreign Currency remaining undrawn (plus, in each case, all interest, fees, and costs due or to become due in connection therewith (as estimated by Bank in its good faith business judgment)), to secure all of the Obligations relating to such Letters of Credit, as collateral security for the repayment of any future drawings under such Letters of Credit, and Borrower shall forthwith deposit and pay such amounts, and (ii) pay in advance all letter of credit fees scheduled to be paid or payable over the remaining term of any Letters of Credit;

(d) terminate any FX Contracts;

(e) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Bank considers advisable, and notify any Person owing Borrower money of Bank's security interest in such funds. Borrower shall collect all payments in trust for Bank and, if requested by Bank, immediately deliver the payments to Bank in the form received from the Account Debtor, with proper endorsements for deposit;

(f) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Bank requests and make it available as Bank designates. Subject to the rights of third parties, to the extent such third parties' rights are senior to Bank's rights, Bank may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Subject to the rights of third parties, to the extent such third parties' rights are senior to Bank's rights, Borrower grants Bank a license to enter and occupy any of its premises, without charge, to exercise any of Bank's rights or remedies;

(g) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) amount held by Bank owing to or for the credit or the account of Borrower;

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

(i) place a "hold" on any account maintained with Bank and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;

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

(k) exercise all rights and remedies available to Bank under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

9.2 Power of Attorney. Borrower hereby irrevocably appoints Bank as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuation of an Event of Default, to: (a) endorse Borrower's name on any checks, payment instruments, or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) demand, collect, sue, and give releases to any Account Debtor for monies due, settle and adjust disputes and claims about the Accounts directly with Account Debtors, and compromise, prosecute, or defend any action, claim, case, or proceeding about any Collateral (including filing a claim or voting a claim in any bankruptcy case in Bank's or

Borrower's name, as Bank chooses); (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, or other claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Bank or a third party as the Code permits. Borrower hereby appoints Bank as its lawful attorney-in-fact to sign Borrower's name on any documents necessary to perfect or continue the perfection of Bank's security interest in the Collateral regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full and the Loan Documents have been terminated. Bank's foregoing appointment as Borrower's attorney in fact, and all of Bank's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed and the Loan Documents have been terminated.

9.3 Protective Payments. If Borrower fails to obtain the insurance called for by Section 6.7 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Bank may obtain such insurance or make such payment, and all amounts so paid by Bank are Bank Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Bank will make reasonable efforts to provide Borrower with notice of Bank obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Bank are deemed an agreement to make similar payments in the future or Bank's waiver of any Event of Default.

9.4 Application of Payments and Proceeds Upon Default. If an Event of Default has occurred and is continuing (or at any time on the terms set forth in Section 6.3(c), regardless of whether an Event of Default exists), Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

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

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

9.7 Demand Waiver. Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Bank on which Borrower is liable.

10. NOTICES

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

If to Borrower: Treace Medical Concepts, Inc.
203 Fort Wade Road, Suite 150
Ponte Vedra, Florida 32081
Attn: ***
Email: ***

with a copy to: Fredrikson & Byron P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402
Attn: ***
Email: ***

If to Bank: Silicon Valley Bank
3475 Piedmont Road, Suite 560
Atlanta, Georgia 30305
Attn: ***
Email: ***

with a copy to: Riemer & Braunstein LLP
Three Center Plaza
Boston, Massachusetts 02108
Attn: ***
Fax: ***
Email: ***

11. CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER

Except as otherwise expressly provided in any of the Loan Documents, New York law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Bank each submit to the exclusive jurisdiction of the State and Federal courts in New York, New York; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Bank from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Bank. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 10 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND BANK EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

This Section 11 shall survive the termination of this Agreement.

12. GENERAL PROVISIONS

12.1 Termination Prior to Revolving Line Maturity Date; Survival. All covenants, representations and warranties made in this Agreement shall continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Revolving Line Maturity Date by Borrower, effective three (3) Business Days after written notice of termination is given to Bank. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

12.2 Successors and Assigns. This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Bank's prior written consent (which may be granted or withheld in Bank's discretion). Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents.

12.3 Indemnification. Borrower agrees to indemnify, defend and hold Bank and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Bank (each, an "**Indemnified Person**") harmless against: (i) all obligations, demands, claims, and liabilities (collectively, "**Claims**") claimed or asserted by any other party against Bank in connection with the transactions contemplated by the Loan Documents; and (ii) all losses or expenses (including Bank Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Bank and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 12.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

12.4 Time of Essence. Time is of the essence for the performance of all Obligations in this Agreement.

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

12.6 Correction of Loan Documents. Bank may correct patent errors and fill in any blanks in the Loan Documents consistent with the agreement of the parties.

12.7 Amendments in Writing; Waiver; Integration. No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

12.8 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

12.9 Confidentiality. In handling any confidential information, Bank shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (a) to Bank's Subsidiaries or Affiliates (such Subsidiaries and Affiliates, together with Bank, collectively, "**Bank Entities**"); (b) to prospective transferees or purchasers of any interest in the Credit Extensions (provided, however, Bank shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Bank's regulators or as otherwise required in connection with Bank's examination or audit; (e) as Bank considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Bank so long as such service providers have executed a confidentiality agreement with Bank with terms no less restrictive than those contained herein. Confidential information does not include information that is either: (i) in the public domain or in Bank's possession when disclosed to Bank, or becomes part of the public domain (other than as a result of its disclosure by Bank in violation of this Agreement) after disclosure to Bank; or (ii) disclosed to Bank by a third party, if Bank does not know that the third party is prohibited from disclosing the information.

Bank Entities may use anonymous forms of confidential information for aggregate datasets, for analyses or reporting, and for any other uses not expressly prohibited in writing by Borrower. The provisions of the immediately preceding sentence shall survive the termination of this Agreement.

12.10 Electronic Execution of Documents. The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

12.11 Right of Setoff. Borrower hereby grants to Bank a Lien and a right of setoff as security for all Obligations to Bank, whether now existing or hereafter arising upon and against all deposits, credits, collateral and property, now or hereafter in the possession, custody, safekeeping or control of Bank or any entity under the control of Bank (including a subsidiary of Bank) or in transit to any of them. At any time after the occurrence and during the continuance of an Event of Default, without demand or notice, Bank may setoff the same or any part thereof and apply the same to any liability or Obligation of Borrower even though unmatured and regardless of the adequacy of any other collateral securing the Obligations. ANY AND ALL RIGHTS TO REQUIRE BANK TO EXERCISE ITS RIGHTS OR REMEDIES WITH RESPECT TO ANY OTHER COLLATERAL WHICH SECURES THE OBLIGATIONS, PRIOR TO EXERCISING ITS RIGHT OF SETOFF WITH RESPECT TO SUCH DEPOSITS, CREDITS OR OTHER PROPERTY OF BORROWER, ARE HEREBY KNOWINGLY, VOLUNTARILY AND IRREVOCABLY WAIVED.

12.12 Captions. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

12.13 Construction of Agreement. The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

12.14 Relationship. The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

12.15 Third Parties. Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

13. DEFINITIONS

13.1 Definitions. As used in the Loan Documents, the word "shall" is mandatory, the word "may" is permissive, the word "or" is not exclusive, the words "includes" and "including" are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

"**Account**" is, as to any Person, any "**account**" of such Person as "account" is defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to such Person.

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

"**Adjusted EBITDA**" shall mean, as calculated on a consolidated basis with respect to Borrower and its Subsidiaries, (a) Net Income, plus (b) Interest Expense, plus (c) to the extent deducted in the calculation of Net Income, depreciation expense and amortization expense, plus (d) income tax expense, plus (e) non-cash stock-based compensation expense, plus (f) Non-Recurring Expenses as agreed to by Bank in writing from time to time, in its sole and absolute discretion.

"**Administrator**" is an individual that is named:

(a) as an "Administrator" in the "SVB Online Services" form completed by Borrower with the authority to determine who will be authorized to use SVB Online Services (as defined in the "Banking Terms and Conditions") on behalf of Borrower; and

(b) as an Authorized Signer of Borrower in an approval by the Board.

"**Advance**" or "**Advances**" means a revolving credit loan (or revolving credit loans) under the Revolving Line.

"**Affiliate**" is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members. For purposes of the definition of Eligible Accounts, Affiliate shall include a Specified Affiliate.

"**Agreement**" is defined in the preamble hereof.

"**Authorized Signer**" is any individual listed in Borrower's Borrowing Resolution who is authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of Borrower.

"**Availability Amount**" is (a) the lesser of (i) the Revolving Line or (ii) the aggregate amount of (x) the amount available under the Borrowing Base plus (y) the Non-Formula Amount, minus (b) the outstanding principal balance of any Advances.

"**Bank**" is defined in the preamble hereof.

"**Bank Entities**" is defined in Section 12.9.

"**Bank Expenses**" are all audit fees (subject to the limitations contained in Section 6.6 herein) and expenses, costs, and expenses (including reasonable and documented attorneys' fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower or any Guarantor.

"**Bank Services**" are any products, credit services, and/or financial accommodations previously, now, or hereafter provided to Borrower or any of its Subsidiaries by Bank or any Bank Affiliate, including, without limitation, any letters of credit, cash management services (including, without limitation, merchant services, direct deposit of payroll, business credit cards, and check cashing services), interest rate swap arrangements, and foreign exchange services as any such products or services may be identified in Bank's various agreements related thereto (each, a "**Bank Services Agreement**").

"**Bank Services Agreement**" is defined in the definition of Bank Services.

"**Board**" is Borrower's board of directors.

"**Borrower**" is defined in the preamble hereof.

"**Borrower's Books**" are all Borrower's books and records including ledgers, federal and state tax returns, records regarding Borrower's assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Borrowing Base**" is eighty-five percent (85.0%) of Eligible Accounts, as determined by Bank from Borrower's most recent Borrowing Base Report (and as may subsequently be updated by Bank based upon information received by Bank including, without limitation, Accounts that are paid and/or billed following the date of the Borrowing Base Report); provided, however, that Bank, upon prior notice to and in consultation with Borrower, has the right to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value.

"**Borrowing Base Report**" is that certain report of the value of certain Collateral in the form specified by Bank to Borrower from time to time.

"**Borrowing Resolutions**" are, with respect to any Person, those resolutions adopted by such Person's board of directors (and, if required under the terms of such Person's Operating Documents, stockholders) and delivered by such Person to Bank approving the Loan Documents to which such Person is a party and the transactions contemplated thereby, together with a certificate executed by its secretary on behalf of such Person certifying (a) such Person has the authority to execute, deliver, and perform its obligations under each of the Loan Documents to which it is a party, (b) that set forth as a part of or attached as an exhibit to such certificate is a true, correct, and complete copy of the resolutions then in full force and effect authorizing and ratifying the execution, delivery, and performance by such Person of the Loan Documents to which it is a party, (c) the name(s) of the Person(s) authorized to execute the Loan Documents, including making (and executing if applicable) any Credit Extension request, on behalf of such Person, together with a sample of the true signature(s) of such Person(s), and (d) that Bank may conclusively rely on such certificate unless and until such Person shall have delivered to Bank a further certificate canceling or amending such prior certificate.

"**Business Day**" is any day that is not a Saturday, Sunday or a day on which Bank is closed.

"**Cash Collateral Account**" is defined in Section 6.3(c).

"**Cash Equivalents**" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc.; (c) Bank's certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

"**Change in Control**" means (a) at any time, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of forty-nine percent (49%) or more of the ordinary voting power for the election of directors of Borrower (determined

on a fully diluted basis) other than by the sale of Borrower's equity securities in a public offering or to venture capital or private equity investors so long as Borrower identifies to Bank the venture capital or private equity investors at least seven (7) Business Days prior to the closing of the transaction and provides to Bank a description of the material terms of the transaction; (b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Borrower shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100.0%) of each class of outstanding capital stock of each Subsidiary of Borrower free and clear of all Liens (except Liens created by this Agreement).

"**Claims**" is defined in Section 12.3.

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

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

"**Collateral Account**" is any Deposit Account, Securities Account, or Commodity Account.

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

"**Compliance Certificate**" is that certain certificate in the form attached hereto as Exhibit B.

"**Contingent Obligation**" is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly

liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Control Agreement**" is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

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

"**Credit Extension**" is any Advance, any Overadvance, or any other extension of credit by Bank for Borrower's benefit.

"**Currency**" is coined money and such other banknotes or other paper money as are authorized by law and circulate as a medium of exchange.

"**Default Rate**" is defined in Section 2.4(b).

"**Deferred Revenue**" is all amounts received or invoiced in advance of performance under contracts and not yet recognized as revenue.

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

"**Designated Deposit Account**" is the account number ending xxxxxxx308 (last three digits) maintained by Borrower with Bank (provided, however, if no such account number is included, then the Designated Deposit Account shall be any deposit account of Borrower maintained with Bank as chosen by Bank).

"**Dollars,**" "**dollars**" or use of the sign "$" means only lawful money of the United States and not any other currency, regardless of whether that currency uses the "$" sign to denote its currency or may be readily converted into lawful money of the United States.

"**Dollar Equivalent**" is, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in a Foreign Currency, the equivalent amount therefor in Dollars as determined by Bank at such time on the basis of the then-prevailing rate of exchange in San Francisco, California, for sales of the Foreign Currency for transfer to the country issuing such Foreign Currency.

"**Effective Date**" is defined in the preamble hereof.

"**Eligible Accounts**" means Accounts owing to Borrower which arise in the ordinary course of Borrower's business that meet all Borrower's representations and warranties in Section 5.3, that have been, at the option of Bank, confirmed in accordance with Section 6.3(f) of this Agreement, and are due and owing from Account Debtors deemed creditworthy by Bank in its good faith business judgment. Bank reserves the right at any time after the Effective Date to adjust any of the criteria set forth below and to establish new criteria in its good faith business judgment. Unless Bank otherwise agrees in writing, Eligible Accounts shall not include:

(a) Accounts (i) for which the Account Debtor is Borrower's Affiliate, officer, employee, investor, or agent, or (ii) that are intercompany Accounts;

(b) Accounts that the Account Debtor has not paid within one hundred twenty (120) days of invoice date regardless of invoice payment period terms;

(c) Accounts with credit balances over one hundred twenty (120) days from invoice date;

(d) Accounts owing from an Account Debtor if fifty percent (50%) or more of the Accounts owing from such Account Debtor have not been paid within one hundred twenty (120) days of invoice date;

(e) Accounts owing from an Account Debtor (i) which does not have its principal place of business in the United States or (ii) whose billing address (as set forth in the applicable invoice for such Account) is not in the United States, unless in the case of both (i) and (ii) such Accounts are otherwise approved by Bank in writing on a case-by-case basis in its sole discretion;

(f) Accounts billed from and/or payable to Borrower outside of the United States (sometimes called foreign invoiced accounts);

(g) Accounts in which Bank does not have a first priority, perfected security interest under all applicable laws;

(h) Accounts billed and/or payable in a Currency other than Dollars;

(i) Accounts owing from an Account Debtor to the extent that Borrower is indebted or obligated in any manner to the Account Debtor (as creditor, lessor, supplier or otherwise – sometimes called "contra" accounts, accounts payable, customer deposits or credit accounts) (excluding customary credits, adjustments and/or discounts given to an Account Debtor by Borrower in the ordinary course of business);

(j) Accounts with or in respect of accruals for marketing allowances, incentive rebates, price protection, cooperative advertising and other similar marketing credits, unless otherwise approved by Bank in writing;

(k) Accounts owing from an Account Debtor which is a United States government entity or any department, agency, or instrumentality thereof unless Borrower has assigned its payment rights to Bank and the assignment has been acknowledged under the Federal Assignment of Claims Act of 1940, as amended;

(l) Accounts with customer deposits and/or with respect to which Borrower has received an upfront payment, to the extent of such customer deposit and/or upfront payment;

(m) Accounts for demonstration or promotional equipment, or in which goods are consigned, or sold on a "sale guaranteed", "sale or return", "sale on approval", or other terms if Account Debtor's payment may be conditional;

(n) Accounts owing from an Account Debtor where goods or services have not yet been rendered to the Account Debtor (sometimes called memo billings or pre-billings);

(o) Accounts subject to contractual arrangements between Borrower and an Account Debtor where payments shall be scheduled or due according to completion or fulfillment requirements (but only to the extent the Account Debtor has a right of offset for damages suffered as a result of Borrower's failure to perform in accordance with the contract) (sometimes called contracts accounts receivable, progress billings, milestone billings, or fulfillment contracts);

(p) Accounts owing from an Account Debtor the amount of which may be subject to withholding based on the Account Debtor's satisfaction of Borrower's complete performance (but only to the extent of the amount withheld; sometimes called retainage billings);

(q) Accounts subject to trust provisions, subrogation rights of a bonding company, or a statutory trust;

(r) Accounts owing from an Account Debtor that has been invoiced for goods that have not been shipped to the Account Debtor unless Bank, Borrower, and the Account Debtor have entered into an agreement acceptable to Bank wherein the Account Debtor acknowledges that (i) it has title to and has ownership of the goods wherever located, (ii) a bona fide sale of the goods has occurred, and (iii) it owes payment for such goods in accordance with invoices from Borrower (sometimes called "bill and hold" accounts);

(s) Accounts for which the Account Debtor has not been invoiced (other than Eligible Unbilled Accounts);

(t) Accounts that represent non-trade receivables or that are derived by means other than in the ordinary course of Borrower's business;

(u) Accounts for which Borrower has permitted Account Debtor's payment to extend beyond ninety (90) days (including Accounts with a due date that is more than ninety (90) days from invoice date);

(v) Accounts arising from chargebacks, debit memos or other payment deductions taken by an Account Debtor (but excluding chargebacks determined invalid and subsequently collected by Borrower);

(w) Accounts arising from product returns and/or exchanges (sometimes called “warranty” or “RMA” accounts);

(x) Accounts in which the Account Debtor disputes liability or makes any claim (but only up to the disputed or claimed amount), or if the Account Debtor is subject to an Insolvency Proceeding (whether voluntary or involuntary), or becomes insolvent, or goes out of business;

(y) Accounts owing from an Account Debtor with respect to which Borrower has received Deferred Revenue (but only to the extent of such Deferred Revenue);

(z) Accounts owing from an Account Debtor, whose total obligations to Borrower exceed twenty-five percent (25.0%) of all Accounts, for the amounts that exceed that percentage, unless Bank approves in writing; and

(aa) Accounts for which Bank in its good faith business judgment determines collection to be doubtful, including, without limitation, accounts represented by “refreshed” or “recycled” invoices.

“**Eligible Unbilled Accounts**” are Accounts that meet all of the following criteria: (a) such Accounts are unconditionally and contractually owing to Borrower and deemed acceptable by Bank in its sole and absolute discretion; (b) such Accounts have not been billed; (c) such Accounts meet all of Borrower’s representations and warranties in Section 5.3 of this Agreement; and (d) such Accounts are Eligible Accounts, but for subsection (s) of the definition of Eligible Accounts; provided, however, that the aggregate amount of Eligible Unbilled Accounts shall not at any time exceed fifteen percent (15.0%) of the lesser of (i) amount of the Borrowing Base and (ii) the Revolving Line. For the sake of clarity, at any time that an Account no longer meets each of the above-referenced criteria (including, without limitation, when such Account is billed), such Account shall no longer be an Eligible Unbilled Account.

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

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

“**Event of Default**” is defined in Section 8.

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

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

“**Funding Date**” is any date on which a Credit Extension is made to or for the account of Borrower which shall be a Business Day.

"**FX Contract**" is any foreign exchange contract by and between Borrower and Bank under which Borrower commits to purchase from or sell to Bank a specific amount of Foreign Currency on a specified date.

"**GAAP**" is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

"**General Intangibles**" is all "general intangibles" as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all Intellectual Property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

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

"**Governmental Authority**" is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Guarantor**" is any Person providing a guaranty in favor of Bank.

"**Indebtedness**" is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

"**Indemnified Person**" is defined in Section 12.3.

"**Initial Audit**" is Bank's inspection of Borrower's Accounts, the Collateral, and Borrower's Books, with results satisfactory to Bank in its sole and absolute discretion.

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

"**Intellectual Property**" means, with respect to any Person, all of such Person's right, title, and interest in and to the following:

(a) its Copyrights, Trademarks and Patents;

(b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how and operating manuals;

(c) any and all source code;

(d) any and all design rights which may be available to such Person;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

"**Interest Expense**" means for any fiscal period, interest expense (whether cash or non-cash) determined in accordance with GAAP for the relevant period ending on such date, including, in any event, interest expense with respect to any Credit Extension and other Indebtedness of Borrower and its Subsidiaries, including, without limitation or duplication, all commissions, discounts, or related amortization and other fees and charges with respect to letters of credit and bankers' acceptance financing and the net costs associated with interest rate swap, cap, and similar arrangements, and the interest portion of any deferred payment obligation (including leases of all types).

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

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

"**Key Person**" is each of Borrower's (a) Chief Executive Officer, who is John T. Treace as of the Effective Date, and (b) Chief Financial Officer, who is Robert P. Jordheim as of the Effective Date.

"**Letter of Credit**" is a standby or commercial letter of credit issued by Bank upon request of Borrower based upon an application, guarantee, indemnity, or similar agreement.

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

"**Loan Documents**" are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Perfection Certificate, any Control Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank, all as amended, restated, or otherwise modified.

"**Material Adverse Change**" is (a) a material impairment in the perfection or priority of Bank's Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower; or (c) a material impairment of the prospect of repayment of any portion of the Obligations.

"**Monthly Financial Statements**" is defined in Section 6.2(c).

"**Net Income**" means, as calculated on a consolidated basis for Borrower and its Subsidiaries for any period as at any date of determination, the net profit (or loss), after provision for taxes, of Borrower and its Subsidiaries for such period taken as a single accounting period.

"**Non-Formula Amount**" is the lesser of (i) Five Hundred Thousand Dollars ($500,000.00) and (ii) thirty-five percent (35.0%) of Eligible Accounts.

"**Non-Recurring Expenses**" means expenses that are one time in nature resulting from acquisitions, the closing of a specific business unit, severance costs paid to terminated employees, payroll expenses related to terminated employees, or similar expenses.

"**Obligations**" are Borrower's obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Termination Fee, the Revolving Line Commitment Fee and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents, or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and to perform Borrower's duties under the Loan Documents.

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

"**Overadvance**" is defined in Section 2.3.

"**Patents**" means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"**Payment Date**" is the last calendar day of each month.

"**Perfection Certificate**" is defined in Section 5.1.

"**Permitted Indebtedness**" is:

(a) Borrower's Indebtedness to Bank under this Agreement and the other Loan Documents;

(b) Indebtedness existing on the Effective Date which is shown on the Perfection Certificate;

(c) Subordinated Debt;

(d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(f) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of "Permitted Liens" hereunder;

(g) other unsecured Indebtedness not otherwise permitted by Section 7.4 not exceeding One Hundred Thousand Dollars ($100,000.00) in the aggregate outstanding at any time; and

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

"**Permitted Investments**" are:

(a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date which are shown on the Perfection Certificate;

(b) Investments consisting of Cash Equivalents;

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

(b) Investments consisting of deposit accounts in which Bank has a first priority perfected security interest;

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

(d) Investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) loans to employees, officers or directors relating to the purchase of equity securities of Borrower or its Subsidiaries pursuant to employee stock purchase plans or agreements approved by Borrower's Board;

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

(f) other Investments not otherwise permitted by Section 7.7 not exceeding One Hundred Thousand Dollars ($100,000.00) in the aggregate outstanding at any time.

"**Permitted Liens**" are:

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

(b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on Borrower's Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;

(c) purchase money Liens (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Fifty Thousand Dollars ($50,000.00) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment;

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

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

(f) leases or subleases of real property granted in the ordinary course of Borrower's business;

(g) non-exclusive license of Intellectual Property granted to third parties in the ordinary course of business;

(h) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7; and

(i) Liens in favor of other financial institutions arising in connection with Borrower's deposit and/or securities accounts held at such institutions, provided that Bank has a first priority perfected security interest in the amounts held in such deposit and/or securities accounts.

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

"**Prime Rate**" is the rate of interest per annum from time to time published in the money rates section of The Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement; and provided further that if such rate of interest, as set forth from time to time in the money rates section of The Wall Street Journal, becomes unavailable for any reason as determined by Bank, the "Prime Rate" shall mean the rate of interest per annum announced by Bank as its prime rate in effect at its principal office in the State of California (such Bank announced Prime Rate not being intended to be the lowest rate of interest charged by Bank in connection with extensions of credit to debtors); provided that, in the event such rate of interest is less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

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

"**Remaining Months Liquidity**" means, for any trailing three-month period as of any date of determination, the ratio of (i) the sum of Borrower's and its Subsidiaries' unrestricted and unencumbered cash at Bank plus the unused Availability Amount; to (ii) Adjusted EBITDA.

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

"**Responsible Officer**" is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

"**Restricted License**" is any material license or other agreement with respect to which Borrower is the licensee (a) that prohibits or otherwise restricts Borrower from granting a security interest in Borrower's interest in such license or agreement or any other property, or (b) for which a default under or termination of could interfere with Bank's right to sell any Collateral.

"**Revolving Line**" is an aggregate principal amount equal to Five Million Dollars ($5,000,000.00).

"**Revolving Line Commitment Fee**" is defined in Section 2.5(a).

"**Revolving Line Maturity Date**" is the date that is three (3) years from the Effective Date.

"**SEC**" shall mean the Securities and Exchange Commission, any successor thereto, and any analogous Governmental Authority.

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

"**Specified Affiliate**" is any Person (a) more than ten percent (10.0%) of whose aggregate issued and outstanding equity or ownership securities or interests, voting, non-voting or both, are owned or held directly or indirectly, beneficially or of record, by Borrower, and/or (b) whose equity or ownership securities or interests representing more than ten percent (10.0%) of such Person's total outstanding combined voting power are owned or held directly or indirectly, beneficially or of record, by Borrower.

"**Subordinated Debt**" is indebtedness incurred by Borrower subordinated to all of Borrower's now or hereafter indebtedness to Bank (pursuant to a subordination, intercreditor, or other similar agreement in form and substance satisfactory to Bank entered into between Bank and the other creditor), on terms acceptable to Bank.

"**Subsidiary**" is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower or Guarantor.

"**Termination Fee**" is defined in Section 2.5(b).

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

"Transfer" is defined in Section 7.1.

"**Transition Period**" is the period of time commencing on the Effective Date, and continuing through the earlier to occur of (i) one hundred twenty (120) days after the Effective Date or (ii) an Event of Default.

[Signature page follows.]

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

BORROWER:

TREACE MEDICAL CONCEPTS, INC.

By: /s/ Robert P. Jordheim
Name: Robert P. Jordheim
Title: CFO

BANK:

SILICON VALLEY BANK

By: /s/ Scott McCarty
Name: Scott McCarty
Title: Director

EXHIBIT A
COLLATERAL DESCRIPTION

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

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

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

Notwithstanding the foregoing, the Collateral does not include any Intellectual Property; provided, however, the Collateral shall include all Accounts and all proceeds of Intellectual Property. If a judicial authority (including a U.S. Bankruptcy Court) would hold that a security interest in the underlying Intellectual Property is necessary to have a security interest in such Accounts and such property that are proceeds of Intellectual Property, then the Collateral shall automatically, and effective as of the Effective Date, include the Intellectual Property to the extent necessary to permit perfection of Bank's security interest in such Accounts and such other property of Borrower that are proceeds of the Intellectual Property.

Pursuant to the terms of a certain negative pledge arrangement with Bank, Borrower has agreed not to encumber any of its Intellectual Property without Bank's prior written consent.

EXHIBIT B
COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK Date: _____
FROM: TREACE MEDICAL CONCEPTS, INC.

The undersigned authorized officer of TREACE MEDICAL CONCEPTS, INC. ("**Borrower**") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "**Agreement**"), (1) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below, (2) there are no continuing Events of Default, (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement, and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries, if any, relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank. Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	**Required**	**Complies**
Monthly financial statements with Compliance Certificate	Monthly within 30 days	Yes No
Annual financial statements (CPA Audited)	FYE within 150 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
A/R & A/P Agings and Inventory reports	Monthly within 30 days	Yes No
Borrowing Base Reports	monthly within 30 days	Yes No
Board approved projections	FYE within 30 days and as amended/updated	Yes No

Financial Covenant	Required	Actual	Complies
Maintain as indicated:			
Remaining Months Liquidity (at all times, tested monthly)	6x Remaining Months Liquidity	$_____	Yes No

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state “No exceptions to note.”)

TREACE MEDICAL CONCEPTS, INC.

By: _____

Name: _____

Title: _____

BANK USE ONLY

Received by: _____

AUTHORIZED SIGNER

Date: _____

Verified: _____

AUTHORIZED SIGNER

Date: _____

Compliance Status: Yes No

SCHEDULE 1 TO COMPLIANCE CERTIFICATE

FINANCIAL COVENANTS OF BORROWER

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

I. Remaining Months Liquidity (Section 6.9)

Required: Commencing with the monthly period ending February 28, 2018 and as of the last day of each monthly period ending thereafter, in each case measured on an average trailing three month basis, achieve Remaining Months Liquidity of at least six (6) months.

Actual:

A. Aggregate value of the unrestricted and unencumbered cash of Borrower and its Subsidiaries maintained at Bank	$_____
B. Aggregate value of the unused Availability Amount	$_____
C. CASH PLUS AVAILABILITY (line A plus line B)	$_____
D. Net Income	$_____
E Interest Expense	$_____
F. To the extent deducted in the calculation of Net Income, depreciation expense and amortization expense	$_____
G. Income tax expense	$_____
H. Non-cash stock-based compensation expense	$_____
I. Non-Recurring Expenses (as agreed to by Bank in writing)	$_____
J. ADJUSTED EBITDA (line D plus line E plus line F plus line G plus line H plus line I minus)	$_____
K. Remaining Months Liquidity (line C divided by (absolute value of line J)	$_____

Is line J equal to or greater than 6.00?

_____ No, not in compliance _____ Yes, in compliance

FIRST AMENDMENT
TO
LOAN AND SECURITY AGREEMENT

This First Amendment to Loan and Security Agreement (this "**Amendment**") is entered into this 14th day of February, 2019 by and between **SILICON VALLEY BANK (**"**Bank**"**)** and **TREACE MEDICAL CONCEPTS, INC.,** a Delaware corporation **(**"**Borrower**"), whose address is 203 Fort Wade Road, Suite 150, Ponte Vedra, Florida 32081.

RECITALS

Bank and Borrower have entered into that certain Loan and Security Agreement dated as of April 18, 2018 (as the same may from time to time be amended, modified, supplemented or restated, the "**Loan Agreement**").

Bank has extended credit to Borrower for the purposes permitted in the Loan Agreement.

Borrower has requested that Bank amend the Loan Agreement to (i) provide for a new term loan, (ii) provide for a new financial covenant and (iii) make certain other revisions to the Loan Agreement as more fully set forth herein.

Bank has agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

AGREEMENT

Now, **THEREFORE**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Loan Agreement.

2. Amendments to Loan Agreement.

2.1 Section 1 (Accounting and Other Terms). Section 1 is amended in its entirety and replaced with the following:

" **1 Accounting and Other Terms**.

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Notwithstanding the foregoing, all financial covenant and other financial calculations shall be computed with respect to Borrower only, and not on a consolidated basis. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein."

2.2 Section 2.2.1 (Term Loan). The Loan Agreement is amended by inserting the following new provision to appear as Section 2.2.1 (Term Loan Advances) thereof:

" **2.2.1 Term Loan Advances**.

(a) Availability. Subject to the terms and conditions of this Agreement, upon Borrower's request, Bank shall make one (1) term loan advance (the "**Term A Loan Advance**") to Borrower on or about the First Amendment Effective Date, in an original principal amount of Ten Million Dollars ($10,000,000.00). Subject to the terms and conditions of this Agreement, upon Borrower's request, during the Draw Period, Bank shall make one (1) term loan advance (the "**Term B Loan Advance**") available to Borrower in an original principal amount of Five Million Dollars ($5,000,000.00). The Term A Loan Advance and Term B Loan Advance are each hereinafter referred to singly as the "Term Loan Advance" and collectively as the "**Term Loan Advances**". After repayment, no Term Loan Advance (or any portion thereof) may be reborrowed.

(b) Interest Period. Commencing on the first (1st) Payment Date of the month following the month in which the Funding Date of the applicable Term Loan Advance occurs, and continuing on each Payment Date thereafter, Borrower shall make monthly payments of interest on such Term Loan Advance at the rate set forth in Section 2.4(a)(ii).

(c) Repayment. Commencing on the Term Loan Amortization Date, and continuing on each Payment Date thereafter, Borrower shall repay the Term Loan Advances in (i) consecutive equal monthly installments of principal according to the Repayment Schedule, plus (ii) monthly payments of accrued interest at the rate set forth in Section 2.4(a)(ii). All outstanding principal and accrued and unpaid interest under the Term Loan Advances, and all other outstanding Obligations hereunder with respect to the Term Loan Advances, are due and payable in full on the Term Loan Maturity Date.

(d) Mandatory Prepayment Upon an Acceleration. If the Term Loan Advances are accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Bank an amount equal to the sum of: (i) all outstanding principal plus accrued and unpaid interest, (ii) the Prepayment Premium, (iii) the Final Payment, plus (iv) all other sums, if any, that shall have become due and payable, including interest at the Default Rate with respect to any past due amounts.

(e) Permitted Prepayment of Term Loan Advances. Borrower shall have the option to prepay all, but not less than all, of the Term Loan Advances advanced by Bank under this Agreement, provided Borrower (i) provides written notice to Bank of its election to prepay the Term Loan Advances at least ten (10) days prior to such prepayment, and (ii) pays, on the date of such prepayment (A) all outstanding principal plus accrued and unpaid interest, (B) the Prepayment Premium, (C) the Final Payment, plus (D) all other sums, if any, that shall have become due and payable, including interest at the Default Rate with respect to any past due amounts."

2.3 Section 2.3 (Overadvances). Section 2.3 is amended in its entirety and replaced with the following:

" **2.3 Overadvances**. If, at any time, the outstanding principal amount of any Advances exceeds the lesser of either the Revolving Line or the Borrowing Base, Borrower shall immediately pay to Bank in cash the amount of such excess (such excess, the "**Overadvance**"). Without limiting Borrower's obligation to repay Bank any Overadvance, Borrower agrees to pay Bank interest on the outstanding amount of any Overadvance, on demand, at a per annum rate equal to the rate that is otherwise applicable to Advances plus four percent (4.0%)."

2.4 Section 2.4(a) (Interest Rate). Section 2.4(a) is amended in its entirety and replaced with the following:

" (a) Interest Rate.

(i) Advances. Subject to Section 2.4(b), the principal amount outstanding under the Revolving Line shall accrue interest at a floating per annum rate equal to (A) at all times prior to the First Amendment Effective Date, one percent (1.00%) above the Prime Rate and (B) at all times after the First Amendment Effective Date, the greater of (i) one percent (1.00%) above the Prime Rate and (ii) six and one-quarter of one percent (6.25%), which interest, in each case, shall be payable monthly in accordance with Section 2.4(d) below.

(ii) Term Loan Advances. Subject to Section 2.4(b), the principal amount outstanding under the Term Loan Advances shall accrue interest at a floating per annum rate equal to the greater of (A) two and one-quarter of one percent (2.25%) above the Prime Rate and (B) seven and one-half of one percent (7.50%), which interest, in each case, shall be payable monthly in accordance with Section 2.4(d) below."

2.5 Section 2.6 (Fees). Section 2.6 is amended by (i) deleting "and" appearing at the end of subsection (b), (ii) re-lettering subsection (c) as subsection (e), and (iii) inserting the following new subsections (c) and (d):

" (c) Prepayment Premium. The Prepayment Premium, when due hereunder;

(d) Final Payment. The Final Payment, when due hereunder; and"

2.6 Section 3.4 (Procedures for Borrowing). Section 3.4 is amended in its entirety and replaced with the following:

" **3.4 Procedures for Borrowing**.

(a) Advances. Subject to the prior satisfaction of all other applicable conditions to the making of an Advance set forth in this Agreement, to obtain an Advance, Borrower (via an individual duly authorized by an Administrator) shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 p.m. Eastern time on the Funding Date of the Advance. Such notice shall be made by Borrower through Bank's online banking program, provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Advances. In connection with any such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program such reports and information, including without limitation, sales journals, cash receipts journals, accounts receivable aging reports, as Bank may request in its sole discretion. Bank shall credit proceeds of an Advance to the Designated Deposit Account. Bank may make Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Advances are necessary to meet Obligations which have become due.

(b) Term Loan Advances. Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan Advance set forth in this Agreement, to obtain a Term Loan Advance, Borrower (via an individual duly authorized by an Administrator) shall notify Bank (which notice shall be irrevocable) by electronic mail by 12:00 p.m. Eastern time on the Funding Date of such Term Loan Advance. Such notice shall be made by Borrower through Bank's online banking program, provided, however, if Borrower is not utilizing Bank's online banking program, then such notice shall be in a written format acceptable to Bank that is executed by an Authorized Signer. Bank shall have received satisfactory evidence that the Board has approved that such Authorized Signer may provide such notices and request Term Loan Advances. In connection with such notification, Borrower must promptly deliver to Bank by electronic mail or through Bank's online banking program a completed Payment/Advance Form executed by an Authorized Signer together with such other reports and information, as Bank may request in its reasonable discretion. Bank shall credit proceeds of any Term Loan Advance to the Designated Deposit Account. Bank may make Term Loan Advances under this Agreement based on instructions from an Authorized Signer or without instructions if the Term Loan Advances are necessary to meet Obligations which have become due."

2.7 Section 6.2 (Financial Statements, Reports, Certificates). Section 6.2 is amended by (i) deleting the "and" appearing at the end of subsection (i), (ii) re-lettering subsection (j) as subsection (k), and (iii) inserting the following new subsection (j):

" (j) prompt written notice of any changes to the beneficial ownership information set out in Section 2 of the Perfection Certificate. Borrower understands and acknowledges that Bank relies on such true, accurate and up-to-date beneficial ownership information to meet Bank's regulatory obligations to obtain, verify and record information about the beneficial owners of its legal entity customers; and"

2.8 Section 6.3(b) (Disputes). Section 6.3(b) is amended by deleting subsection (iii) and inserting in lieu thereof:

"(iii) after taking into account all such discounts, settlements and forgiveness, the total outstanding Advances will not exceed the lesser of either the Revolving Line or the Borrowing Base."

2.9 Section 6.6 (Access to Collateral; Books and Records). The last sentence of Section 6.6 is deleted in its entirety and replaced with the following:

"In the event Borrower and Bank schedule an audit more than eight (8) days in advance, and Borrower cancels or seeks to or reschedules the audit with less than eight (8) days written notice to Bank, then (without limiting any of Bank's rights or remedies) Borrower shall pay Bank a fee of Two Thousand Dollars ($2,000.00) plus any out-of-pocket expenses incurred by Bank to compensate Bank for the anticipated costs and expenses of the cancellation or rescheduling."

2.10 Section 6.9 (Financial Covenant – Minimum Remaining Monthly Liquidity). Section 6.9 is amended in its entirety and replaced with the following:

" **6.9 Financial Covenants**.

(a) Minimum Remaining Monthly Liquidity. Commencing with the monthly period ending February 28, 2018 and as of the last day of each monthly period ending thereafter, through and including January 31, 2019, in each case measured on an average trailing three month basis, achieve Remaining Months Liquidity of at least six (6) months.

(b) Minimum Revenue. Achieve, to be tested as of the last day of each calendar month commencing with the monthly period ending February 28, 2019, minimum revenue (determined in accordance with GAAP), calculated with respect to Borrower only and not on a consolidated basis, measured on a trailing six (6) month basis, of at least:

Trailing Six (6) Month Period Ending	Minimum Revenue
January 31, 2019	$11,635,688.00
February 28, 2019	$11,605,325.00
March 31, 2019	$11,655,317.00
April 30, 2019	$10,988,513.00
May 31, 2019	$9,995,602.00
June 30, 2019	$8,601,799.00
July 31, 2019	$8,804,409.00
August 31, 2019	$9,331,263.00
September 30, 2019	$9,761,248.00
October 31, 2019	$11,096,755.00
November 30, 2019	$12,688,047.00
December 31, 2019	$15,920,811.00
January 31, 2020	$16,659,591.00
February 29, 2020	$16,961,726.00
March 31, 2020	$17,463,289.00
April 30, 2020	$16,912,698.00
May 31, 2020	$16,244,826.00
June 30, 2020	$14,194,555.00
July 31, 2020	$14,528,899.00
August 31, 2020	$15,398,305.00
September 30, 2020	$16,107,860.00
October 31, 2020	$18,311,693.00
November 30, 2020	$20,937,617.00
December 31, 2020	$26,272,274.00

With respect to the period ending January 31, 2021 and each testing period thereafter, the levels of minimum revenue shall be set based upon the greater of (a) (i) with respect to the testing periods ending in 2021, a revenue projection of Forty-Six Million Dollars ($46,000,000.00) (allocated to each testing period for such year based upon the respective percentages in the Board- approved plan) and (ii) with respect to the testing periods ending in 2022, a revenue projection of Fifty-Five Million Dollars ($55,000,000.00) (allocated to each testing period for such year based upon the respective percentages in the Board-approved plan) and (b) seventy percent (70.0%) of Borrower’s projected revenues for such year (to be calculated consistent with the

manner in which the minimum revenue amounts were calculated above for 2019 through 2020), and, which shall be mutually agreed to by Borrower and Bank after consultation with Borrower, based upon, among other factors, Bank's then current underwriting and Borrower's Board-approved operating plan and financial projections (which projections shall reflect year-over-year growth of at least thirty percent (30.0%)). With respect thereto:

(a) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2021, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2021 through and including December 31, 2021 or (2) deliver to Bank, on or before January 30, 2021, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2021, shall result in an immediate Event of Default for which there shall be no grace or cure period;

(b) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2022, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2022 through and including December 31, 2022 or (2) deliver to Bank, on or before January 30, 2022, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2022, shall result in an immediate Event of Default for which there shall be no grace or cure period; and

(c) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2023, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2023 through and including December 31, 2023 or (2) deliver to Bank, on or before January 30, 2023, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2023, shall result in an immediate Event of Default for which there shall be no grace or cure period.

2.11 Section 6.12 (Online Banking). Section 6.12 shall be amended by deleting subsection (b) thereof and inserting in lieu thereof the following:

" (b) Comply with the terms of Bank's Online Banking Agreement as in effect from time to time and ensure that all persons utilizing Bank's online banking platform are duly authorized to do so by an Administrator. Bank shall be entitled to assume the authenticity, accuracy and completeness on any information, instruction or request for a Credit Extension submitted via Bank's online banking platform and to further assume that any submissions or requests made via Bank's online banking platform have been duly authorized by an Administrator."

2.12 Section 7.2 (Changes in Business, Management, Control, or Business Locations). Section 7.2 of the Loan Agreement is hereby amended by inserting the following sentence to appear as the penultimate sentence in the second paragraph thereof:

"If Borrower intends to add any new offices or business locations, including warehouses, containing in excess of Fifty Thousand Dollars ($50,000.00) of Borrower's assets or property, then Borrower shall cause the landlord of any such new offices or business locations, including warehouses, to execute and deliver a landlord consent in form and substance satisfactory to Bank."

2.13 Section 8.1 (Payment Default). Section 8.1 is amended in its entirety and replaced with the following:

"**Section 8.1 Payment Default**. Borrower fails to (a) make any payment of principal or interest on any Credit Extension when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Term Loan Maturity Date or the Revolving Line Maturity Date). During the cure period, the failure to make or pay any payment specified under clause (b) hereunder is not an Event of Default (but no Credit Extension will be made during the cure period);"

2.14 Section 9.4 (Application of Payments and Proceeds Upon Default). Section 9.4 is amended in its entirety and replaced with the following:

" **9.4 Application of Payment and Proceeds Upon Default**. If an Event of Default has occurred and is continuing (or at any time on the terms set forth in Section 6.3(c), regardless of whether an Event of Default exists), Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor.

Notwithstanding anything to the contrary in this Agreement or the other Loan Documents, the Proceeds of Collection shall upon receipt by Bank be paid to and applied as follows:

First, to the payment of then outstanding Bank Expenses, including all amounts expended by Bank to preserve the value of the Collateral, of foreclosure or suit, if any, and of such sale and the exercise of any other rights or remedies, and of all proper fees, expenses, liability and advances;

Second, to the payment of all accrued and unpaid interest owing to Bank on the Revolving Line;

Third, to the payment of the outstanding principal owing to Bank on the Revolving Line;

Fourth, to the payment of the premiums, Revolving Line Commitment Fee, Termination Fee, or other early termination fees (if applicable) owing to Bank on the Revolving Line;

Fifth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Revolving Line (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Sixth, to the payment of all accrued and unpaid interest owing to Bank on the Term Loan Advances;

Seventh, to the payment of the outstanding principal owing to Bank on the Term Loan Advances;

Eighth, to the payment of the outstanding premiums (if any), the Prepayment Premium, and the Final Payment, owing to Bank on the Term Loan Advances;

Ninth, to the payment of all other outstanding and unpaid Obligations owing to Bank under the Term Loan Advances (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Tenth, to the payment of all outstanding and unpaid Obligations owing to Bank under Bank Services Agreements (including indemnification claims not otherwise satisfied pursuant to the preceding clauses);

Eleventh, to the payment of all other outstanding and unpaid Obligations owing to Bank (including indemnification claims not otherwise satisfied pursuant to the preceding clauses); and

Twelfth, to Borrower, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same."

2.15 Section 12.1 (12.1 Termination Prior to Revolving Line Maturity Date; Survival). Section 12.1 is amended in its entirety and replaced with the following:

" **12.1 Termination Prior to Maturity Date; Survival**. All covenants, representations and warranties made in this Agreement shall continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. So long as Borrower has satisfied the Obligations (other than inchoate indemnity obligations, and any other obligations which, by their terms, are to survive the termination of this Agreement, and any Obligations under Bank

Services Agreements that are cash collateralized in accordance with Section 4.1 of this Agreement), this Agreement may be terminated prior to the Revolving Line Maturity Date or Term Loan Maturity Date by Borrower, effective three (3) Business Days after written notice of termination is given to Bank. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination."

2.16 Section 12.2 (12.2 Successors and Assigns). The last sentence of Section 12.2 is deleted in its entirety and replaced with the following:

"Bank has the right, without the consent of or notice to Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights, and benefits under this Agreement and the other Loan Documents (other than the Warrant, as to which assignment, transfer and other such actions are governed by the terms thereof)."

2.17 Section 12.9 (Confidentiality). Subsection 12.9(b) is amended in its entirety and replaced with the following:

"(b) subject to an agreement containing provisions substantially the same as those of this Section 12.9, to any assignee or purchaser of or participant in, or any prospective assignee or purchaser of or participant in, any of Bank's rights and obligations under this Agreement;"

2.18 Section 13 (Definitions). The following term and its definition set forth in Section 13.1 is deleted in its entirety:

"**Non-Formula Amount**" is the lesser of (i) Five Hundred Thousand Dollars ($500,000.00) and (ii) thirty-five percent (35.0%) of Eligible Accounts.

2.19 Section 13 (Definitions). The following terms and their respective definitions set forth in Section 13.1 are amended in their entirety and replaced with the following:

"**Administrator**" is an individual that is named:

(a) as an "Administrator" in the "SVB Online Services" form completed by Borrower with the authority to determine who will be authorized to use SVB Online Services (as defined in Bank's Online Banking Agreement as in effect from time to time) on behalf of Borrower; and

(b) as an Authorized Signer of Borrower in an approval by the Board.

"**Availability Amount**" is (a) the lesser of (i) the Revolving Line or (ii) the amount available under the Borrowing Base, minus (b) the outstanding principal balance of any Advances.

"**Borrowing Base**" is eighty-five percent (85.0%) of Eligible Accounts, as determined by Bank from Borrower's most recent Borrowing Base Report; provided, however, that Bank, upon prior notice to and in consultation with Borrower, has the right to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value."

"**Credit Extension**" is any Advance, any Term Loan Advance, any Overadvance, or any other extension of credit by Bank for Borrower's benefit.

"**Loan Documents**" are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Perfection Certificate, the Warrant, any Control Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank, all as amended, restated, or otherwise modified.

"**Obligations**" are Borrower's obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Termination Fee, the Revolving Line Commitment Fee, the Prepayment Premium, the Final Payment, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents (other than the Warrant), or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and to perform Borrower's duties under the Loan Documents (other than the Warrant).

"**Revolving Line Maturity Date**" is February 1, 2023.

2.20 Section 13.1 (Definitions). The Loan Agreement is amended by inserting the following new terms and their respective definitions to appear alphabetically in Section 13.1 thereof:

"**Draw Period**" is the period of time commencing upon the occurrence of the Milestone Event and continuing through the earlier to occur of (a) July 31, 2020 or (b) an Event of Default.

"**Final Payment**" is a payment (in addition to and not a substitution for the regular monthly payments of principal plus accrued interest) equal to the original principal amount of the Term Loan Advances extended by Bank to Borrower hereunder, multiplied by three and one-half of one percent (3.50%), due on the earliest to occur of (a) the Term Loan Maturity Date, (b) the payment in full of the Term Loan Advances, (c) as required by Section 2.2.1(d) or Section 2.2.1(e), or (d) the termination of this Agreement.

"**First Amendment Effective Date**" is February 14, 2019.

"**Milestone Event**" means delivery by Borrower to Bank, on or prior to July 31, 2020, of evidence satisfactory to Bank in Bank's sole and absolute discretion that Borrower has achieved net revenue (calculated with respect to Borrower only and not on a consolidated basis), determined in accordance with GAAP, of at least Thirty-Two Million Five Hundred Thousand Dollars ($32,500,000.00) for a trailing twelve (12) month period ending no later than July 31, 2020 (which twelve (12) month period shall end no earlier than the last day of the first (1st) calendar month ending after the First Amendment Effective Date).

"**Prepayment Premium**" shall be an additional fee payable to Bank, with respect to the Term Loan Advances, in an amount equal to:

(a) for a prepayment of the Term Loan Advances made on or prior to the first (1st) anniversary of the First Amendment Effective Date, Four Hundred Fifty Thousand Dollars ($450,000.00);

(b) for a prepayment of the Term Loan Advances made after the first (1st) anniversary of the First Amendment Effective Date, but on or prior to the second (2nd) anniversary of the First Amendment Effective Date, Two Hundred Twenty-Five Thousand Dollars ($225,000.00); and

(c) for a prepayment of the Term Loan Advances made after the second (2nd) anniversary of the First Amendment Effective Date, Zero Dollars ($0.00).

"**Proceeds of Collection**" is defined in Section 9.4.

"**Repayment Schedule**" means the period of time equal to twenty-four (24) consecutive months; provided, however, if the Term B Loan Advance is made, the Repayment Schedule shall be the period of time equal to eighteen (18) consecutive months.

"**Term A Loan Advance**" is defined in Section 2.2.1(a).

"**Term B Loan Advance**" is defined in Section 2.2.1(a).

"**Term Loan Advance**" and "**Term Loan Advances**" are each defined in Section 2.2.1(a).

"**Term Loan Amortization Date**" is March 1, 2021; provided, however, if the Term B Loan Advance is made, the Term Loan Amortization Date shall be September 1, 2021.

"**Term Loan Maturity Date**" is February 1, 2023.

"**Warrant**" is, collectively, (i) that certain warrant to purchase stock by and between Borrower and WestRiver Innovation Lending Fund VIII, L.P. dated as of the First Amendment Effective Date and (ii) that certain warrant to purchase stock by and between Borrower and Bank dated as of the First Amendment Effective Date, as each may be amended, modified, supplemented, or restated from time to time.

2.21 Exhibit B (Compliance Certificate). The Compliance Certificate appearing as **Exhibit B** to the Loan Agreement is deleted in its entirety and replaced with the Compliance Certificate attached as **Schedule 1** attached hereto.

2.22 Exhibit C (Loan Payment/Advance Request Form). The Loan Agreement is amended by inserting the Loan Payment/Advance Form attached as **Schedule 2** hereto to appear as **Exhibit C** to the Loan Agreement.

3. Limitation of Amendments.

3.1 The amendments set forth in Section 2 above are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Bank may now have or may have in the future under or in connection with any Loan Document.

3.2 This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

4. Representations and Warranties. To induce Bank to enter into this Amendment, Borrower hereby represents and warrants to Bank as follows:

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Bank on the Effective Date remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any law or regulation binding on or affecting Borrower, (b) any contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Borrower, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on Borrower, except as already has been obtained or made; and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

5. Updated Perfection Certificate. Borrower has delivered an updated Perfection Certificate in connection with this Amendment dated as of the date hereof (the "**Updated Perfection Certificate**") which Updated Perfection Certificate shall supersede in all respects that certain Perfection Certificate dated as of April 18, 2018. Borrower agrees that all references in the Loan Agreement to "Perfection Certificate" shall hereinafter be deemed to be a reference to the Updated Perfection Certificate.

6. Integration. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

7. Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

8. Effectiveness. This Amendment shall be deemed effective upon (a) the due execution and delivery to Bank of this Amendment by each party hereto and (b) Borrower's payment to Bank of (i) the fully earned, non-refundable term loan commitment fee in an amount equal to One Hundred Fifty Thousand Dollars ($150,000.00), and (ii) Bank's legal fees and expenses incurred in connection with this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first written above.

BANK	BORROWER
SILICON VALLEY BANK	TREACE MEDICAL CONCEPTS, INC.
By: /s/ Scott McCarty	By: /s/ Robert P. Jordheim
Name: Scott McCarty	Name: Robert P. Jordheim
Title: Director	Title: CFO

Schedule 1

EXHIBIT B
COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK Date: _____
FROM: TREACE MEDICAL CONCEPTS, INC.

The undersigned authorized officer of TREACE MEDICAL CONCEPTS, INC. ("**Borrower**") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "**Agreement**"), (1) Borrower is in complete compliance for the period ending _____with all required covenants except as noted below, (2) there are no continuing Events of Default, (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement, and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries, if any, relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank. Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	Required	Complies
Monthly financial statements with Compliance Certificate	Monthly within 30 days	Yes No
Annual financial statements (CPA Audited)	FYE within 150 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
A/R & A/P Agings and Inventory reports	Monthly within 30 days	Yes No
Borrowing Base Reports	Monthly within 30 days	Yes No
Board approved projections	FYE within 30 days and as amended/updated	Yes No

Financial Covenant	Required	Actual	Complies
Achieve as indicated:			
Minimum Revenue	$_____ *	$_____	Yes No

**as set forth in Section 6.9(b)*

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state “No exceptions to note.”)

TREACE MEDICAL CONCEPTS, INC.

By: _____
Name: _____
Title: _____

BANK USE ONLY

Received by: _____
AUTHORIZED SIGNER

Date: _____

Verified: _____
AUTHORIZED SIGNER

Date: _____

Compliance Status: Yes No

SCHEDULE 1 TO COMPLIANCE CERTIFICATE

FINANCIAL COVENANTS OF BORROWER

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

I. Minimum Revenue (Section 6.9(b))

Required: Achieve, to be tested as of the last day of each calendar month commencing with the monthly period ending February 28, 2019, minimum revenue (determined in accordance with GAAP), calculated with respect to Borrower only and not on a consolidated basis, measured on a trailing six (6) month basis, of at least:

Trailing Six (6) Month Period Ending	Minimum Revenue
January 31, 2019	$ 11,635,688.00
February 28, 2019	$ 11,605,325.00
March 31, 2019	$ 11,655,317.00
April 30, 2019	$ 10,988,513.00
May 31, 2019	$ 9,995,602.00
June 30, 2019	$ 8,601,799.00
July 31, 2019	$ 8,804,409.00
August 31, 2019	$ 9,331,263.00
September 30, 2019	$ 9,761,248.00
October 31, 2019	$ 11,096,755.00
November 30, 2019	$ 12,688,047.00
December 31, 2019	$ 15,920,811.00
January 31, 2020	$ 16,659,591.00
February 29, 2020	$ 16,961,726.00
March 31, 2020	$ 17,463,289.00
April 30, 2020	$ 16,912,698.00
May 31, 2020	$ 16,244,826.00
June 30, 2020	$ 14,194,555.00
July 31, 2020	$ 14,528,899.00
August 31, 2020	$ 15,398,305.00
September 30, 2020	$ 16,107,860.00
October 31, 2020	$ 18,311,693.00
November 30, 2020	$ 20,937,617.00
December 31, 2020	$ 26,272,274.00

Actual: A. $_____

Is line A equal to or greater than $ _____*?

**As set forth above*

_____ No, not in compliance _____ Yes, in compliance

Schedule 2

EXHIBIT C – LOAN PAYMENT/ADVANCE REQUEST FORM

DEADLINE FOR SAME DAY PROCESSING IS NOON EASTERN TIME

Fax To: Date:

LOAN PAYMENT: TREACE MEDICAL CONCEPTS, INC.

From Account # _____ To Account # _____

(Deposit Account #) (Loan Account #)

Principal $ _____ and/or Interest $ _____

Authorized Signature: _____ Phone Number: _____

Print Name/Title: _____

LOAN ADVANCE:

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

From Account # _____ To Account # _____

(Loan Account #) (Deposit Account #)

Amount of Term Loan Advance $ _____

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

Authorized Signature: _____ Phone Number: _____

Print Name/Title: _____

OUTGOING WIRE REQUEST:

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

Deadline for same day processing is noon, Eastern Time

Beneficiary Name: _____ Amount of Wire: $ _____

Beneficiary Bank: _____ Account Number: _____

City and State: _____

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

(For International Wire Only)

Intermediary Bank: _____ Transit (ABA) #: _____

For Further Credit to:

Special Instruction:

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

Authorized Signature: _____ 2nd Signature (if required): _____

Print Name/Title: _____ Print Name/Title: _____

Telephone#: _____ Telephone# _____

SECOND AMENDMENT
TO
LOAN AND SECURITY AGREEMENT

This Second Amendment to Loan and Security Agreement (this "**Amendment**") is entered into this 30th day of December, 2019 by and between **SILICON VALLEY BANK** ("**Bank**") and **TREACE MEDICAL CONCEPTS, INC.**, a Delaware corporation ("**Borrower**"), whose address is 203 Fort Wade Road, Suite 150, Ponte Vedra, Florida 32081.

RECITALS

A. Bank and Borrower have entered into that certain Loan and Security Agreement dated as of April 18, 2018, as amended by that certain First Amendment to Loan and Security Agreement dated as of February 14, 2019 (as the same has been and may from time to time be further amended, modified, supplemented or restated, the "**Loan Agreement**").

B. Bank has extended credit to Borrower for the purposes permitted in the Loan Agreement.

C. Borrower has requested that Bank amend the Loan Agreement to (i) increase the Term Loan Advances and Revolving Line, (ii) revise the Minimum Revenue financial covenant, and (iii) make certain other revisions to the Loan Agreement as more fully set forth herein.

D. Bank has agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Loan Agreement.

2. Amendments to Loan Agreement.

2.1 Section 2.2.1(a) (**Term Loan Advances**). Section 2.2.1(a) is amended in its entirety and replaced with the following:

" (a) Availability. Subject to the terms and conditions of this Agreement, upon Borrower's request, Bank shall make one (1) term loan advance (the "**Term A Loan Advance**") to Borrower on or about the First Amendment Effective Date, in an original principal amount of Ten Million Dollars ($10,000,000.00). Subject to the terms and conditions of this Agreement, upon Borrower's request, during the Draw Period, Bank shall make one (1) term loan advance available to Borrower consisting of (i) one (1)

term loan advance in an original principal amount of Five Million Dollars ($5,000,000.00) (the "**Term B1 Loan Advance**") and (ii) one (1) term loan advance in an original principal amount of Five Million Dollars ($5,000,000.00) (the "**Term B2 Loan Advance**"). Collectively, the Term B1 Loan Advance and the Term B2 Loan Advance shall be in an aggregate original principal amount of Ten Million Dollars ($10,000,000.00) (the "**Term B Loan Advance**"). Subject to the terms and conditions of this Agreement, upon Borrower's request, during the Second Draw Period, Bank shall make one (1) term loan advance (the "**Term C Loan Advance**") available to Borrower in an original principal amount of Five Million Dollars ($5,000,000.00). The Term A Loan Advance, Term B Loan Advance and Term C Loan Advance are each hereinafter referred to singly as the "**Term Loan Advance**" and collectively as the "**Term Loan Advances**". After repayment, no Term Loan Advance (or any portion thereof) may be reborrowed."

2.2 Section 2.4(a)(ii) (Interest Rate). Section 2.4(a)(ii) is amended in its entirety and replaced with the following:

" (ii) Term Loan Advances. Subject to Section 2.4(b), the principal amount outstanding under the Term Loan Advances shall accrue interest at a floating per annum rate equal to the greater of (A) two and one-quarter of one percent (2.25%) above the Prime Rate and (B) (1) with respect to the Term A Loan Advance and the Term B Loan Advance, seven and one-half of one percent (7.50%) and (2) with respect to the Term C Loan Advance, seven percent (7.0%), which interest, in each case, shall be payable monthly in accordance with Section 2.4(d) below."

2.3 Section 6.8(a) (Accounts). Section 6.8(a) is amended in its entirety and replaced with the following:

" (a) After the expiration of the Transition Period, maintain its and all of its Subsidiaries' operating accounts, the Cash Collateral Account and excess cash with Bank and Bank's Affiliates. In addition, Borrower shall use Bank and Bank's Affiliates for all cash management and letters of credit banking. Further, Borrower will use its best efforts to use Bank and Bank's Affiliates for all business credit card banking, including Borrower's existing credit card banking currently serviced by American Express. Any Guarantor shall maintain all operating accounts and excess cash with Bank and Bank's Affiliates."

2.4 Section 6.9(b) (Minimum Revenue). Section 6.9(b) is amended in its entirety and replaced with the following:

" (b) Minimum Revenue. Achieve, to be tested as of the last day of each calendar month commencing with the monthly period ending February 28, 2019, minimum revenue (determined in accordance with GAAP), calculated with respect to Borrower only and not on a consolidated basis, measured on a trailing six (6) month basis, of at least:

Trailing Six (6) Month Period Ending	Minimum Revenue
January 31, 2019	$11,635,688.00
February 28, 2019	$11,605,325.00
March 31, 2019	$11,655,317.00
April 30, 2019	$10,988,513.00
May 31, 2019	$9,995,602.00
June 30, 2019	$8,601,799.00
July 31, 2019	$8,804,409.00
August 31, 2019	$9,331,263.00
September 30, 2019	$9,761,248.00
October 31, 2019	$11,096,755.00
November 30, 2019	$12,688,047.00
December 31, 2019	$15,920,811.00
January 31, 2020	$16,668,682.00
February 29, 2020	$17,324,445.00
March 31, 2020	$17,969,777.00
April 30, 2020	$18,364,010.00
May 31, 2020	$17,567,677.00
June 30, 2020	$15,819,621.00
July 31, 2020	$16,588,565.00
August 31, 2020	$18,253,969.00
September 30, 2020	$19,704,481.00
October 31, 2020	$21,916,674.00
November 30, 2020	$25,827,552.00
December 31, 2020	$32,180,378.00

With respect to the period ending January 31, 2021 and each testing period thereafter, the levels of minimum revenue shall be set based upon the greater of (a) (i) with respect to the testing periods ending in 2021, a revenue projection of Fifty-Six Million Dollars ($56,000,000.00) (allocated to each testing period for such year based upon the respective percentages in the Board-approved plan) and (ii) with respect to the testing periods ending in 2022, a revenue projection of Sixty-Five Million Dollars ($65,000,000.00) (allocated to each testing period for such year based upon the respective percentages in the Board-approved plan) and (b) seventy percent (70.0%) of Borrower’s projected revenues for such year (to be calculated consistent with the manner in which the minimum revenue amounts were calculated above for 2019 through 2020),

and, which shall be mutually agreed to by Borrower and Bank after consultation with Borrower, based upon, among other factors, Bank's then current underwriting and Borrower's Board-approved operating plan and financial projections (which projections shall reflect year-over-year growth of at least thirty percent (30.0%)). With respect thereto:

(a) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2021, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2021 through and including December 31, 2021 or (2) deliver to Bank, on or before January 30, 2021, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2021, shall result in an immediate Event of Default for which there shall be no grace or cure period;

(b) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2022, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2022 through and including December 31, 2022 or (2) deliver to Bank, on or before January 30, 2022, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2022, shall result in an immediate Event of Default for which there shall be no grace or cure period; and

(c) Borrower's failure to either (1) agree in writing (which agreement shall be set forth in a written amendment to this Agreement) on or before February 28, 2023, to any revenue covenant levels determined in accordance with this Section 6.9(b) and proposed by Bank to Borrower with respect to any period from January 31, 2023 through and including December 31, 2023 or (2) deliver to Bank, on or before January 30, 2023, Borrower's Board-approved operating plan and financial projections, with respect to Borrower's fiscal year ending December 31, 2023, shall result in an immediate Event of Default for which there shall be no grace or cure period.

2.5 Section 7.1 (**Dispositions**). The first clause appearing in Section 7.1 is amended in its entirety and replaced with the following:

"Borrower shall not do any of the following without Bank's prior written consent, which consent shall not be unreasonably withheld: convey, sell, lease, transfer, assign, or otherwise dispose of (including, without limitation, pursuant to a Division) (collectively, "**Transfer**"),"

2.6 Section 7.3 (**Mergers or Acquisitions**). Section 7.3 is hereby amended in its entirety and replaced with the following:

"**7.3 Mergers or Acquisitions**. Borrower shall not do any of the following without Bank's prior written consent, which consent shall not be unreasonably withheld: merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (including, without limitation, by the formation of any Subsidiary or pursuant to a Division), without the prior written consent of Bank. A Subsidiary may merge or consolidate into another Subsidiary or into Borrower."

2.7 Section 13 (**Definitions**). The following terms and their respective definitions set forth in Section 13.1 are amended in their entirety and replaced with the following:

" "**Final Payment**" is a payment (in addition to and not a substitution for the regular monthly payments of principal plus accrued interest) equal to (a) the sum of (i) the original principal amount of the Term A Loan Advance extended by Bank to Borrower hereunder plus (ii) the original principal amount of the Term B1 Loan Advance extended by Bank to Borrower hereunder, multiplied by three and one-half of one percent (3.50%), plus (b) (i) the original principal amount of the Term B2 Loan Advance extended by Bank to Borrower hereunder plus (ii) the original principal amount of the Term C Loan Advance extended by Bank to Borrower hereunder, multiplied by four and three-quarters of one percent (4.75%), due on the earliest to occur of (a) the Term Loan Maturity Date, (b) the payment in full of the Term Loan Advances, (c) as required by Section 2.2.1(d) or Section 2.2.1(e), or (d) the termination of this Agreement."

" "**Prepayment Premium**" shall be an additional fee payable to Bank

(a) with respect to the Term A Loan Advance, in an amount equal to:

(i) for a prepayment of the Term A Loan Advance made on or prior to the first (1st) anniversary of the First Amendment Effective Date, Three Hundred Thousand Dollars ($300,000.00);

(ii) for a prepayment of the Term A Loan Advance made after the first (1st) anniversary of the First Amendment Effective Date, but on or prior to the second (2nd) anniversary of the First Amendment Effective Date, One Hundred Fifty Thousand Dollars ($150,000.00); and

(iii) for a prepayment of the Term A Loan Advance made after the second (2nd) anniversary of the First Amendment Effective Date, Zero Dollars ($0.0).

(b) with respect to the Term B1 Loan Advance, in an amount equal to:

(i) for a prepayment of the Term B1 Loan Advance made on or prior to the first (1st) anniversary of the First Amendment Effective Date, One Hundred Fifty Thousand Dollars ($150,000.00);

(ii) for a prepayment of the Term B1 Loan Advance made after the first (1st) anniversary of the First Amendment Effective Date, but on or prior to the second (2nd) anniversary of the First Amendment Effective Date, Seventy-Five Thousand Dollars ($75,000.00); and

(iii) for a prepayment of the Term B1 Loan Advance made after the second (2nd) anniversary of the First Amendment Effective Date, Zero Dollars ($0.0).

(c) with respect to the Term B2 Loan Advance, in an amount equal to:

(i) for a prepayment of the Term B2 Loan Advance made on or prior to the first (1st) anniversary of the Second Amendment Effective Date, One Hundred Fifty Thousand Dollars ($150,000.00);

(ii) for a prepayment of the Term B2 Loan Advance made after the first (1st) anniversary of the Second Amendment Effective Date, but on or prior to the second (2nd) anniversary of the Second Amendment Effective Date, Seventy-Five Thousand Dollars ($75,000.00); and

(iii) for a prepayment of the Term B2 Loan Advance made after the second (2nd) anniversary of the Second Amendment Effective Date, Zero Dollars ($0.0).

(d) with respect to the Term C Loan Advance, in an amount equal to:

(i) for a prepayment of the Term C Loan Advance made on or prior to the first (1st) anniversary of the Second Amendment Effective Date, One Hundred Fifty Thousand Dollars ($150,000.00);

(ii) for a prepayment of the Term C Loan Advance made after the first (1st) anniversary of the Second Amendment Effective Date, but on or prior to the second (2nd) anniversary of the Second Amendment Effective Date, Seventy-Five Thousand Dollars ($75,000.00); and

(iii) for a prepayment of the Term C Loan Advance made after the second (2nd) anniversary of the Second Amendment Effective Date, Zero Dollars ($0.0).

Notwithstanding the foregoing, provided no Event of Default has occurred and is continuing, Bank's portion of the Prepayment Premium shall be waived by Bank if Bank closes on the refinance and redocumentation of this Agreement (in its sole and absolute discretion) prior to the Term Loan Maturity Date."

" "**Repayment Schedule**" means the period of time equal to twenty-four (24) consecutive months; provided, however, if the Term B Loan Advance is made, the Repayment Schedule shall be the period of time equal to eighteen (18) consecutive months; and provided further, if the Term C Loan Advance is made, the Repayment Schedule shall be the period of time equal to twelve (12) consecutive months."

" "**Revolving Line**" is (a) prior to the occurrence of the Increase Event, an aggregate principal amount equal to Five Million Dollars ($5,000,000.00) and (b) upon and after the occurrence of the Increase Event, an aggregate principal amount equal to Ten Million Dollars ($10,000,000.00)."

" "**Term Loan Amortization Date**" is March 1, 2021; provided, however, if the Term B Loan Advance is made, the Term Loan Amortization Date shall be September 1, 2021; and provided further, if the Term C Loan Advance is made, the Term Loan Amortization Date shall be March 1, 2022."

" "**Warrant**" is, collectively, (a) that certain warrant to purchase stock by and between Borrower and WestRiver Innovation Lending Fund VIII, L.P. dated as of the First Amendment Effective Date, (b) that certain warrant to purchase stock by and between Borrower and Bank dated as of the First Amendment Effective Date, (c) that certain warrant to purchase stock by and between Borrower and WestRiver Innovation Lending Fund VIII, L.P. dated as of the Second Amendment Effective Date, and (d) that certain warrant to purchase stock by and between Borrower and Bank dated as of the Second Amendment Effective Date as each may be amended, modified, supplemented, or restated from time to time."

2.8 Section 13.1 (Definitions). The Loan Agreement is amended by inserting the following new terms and their respective definitions to appear alphabetically in Section 13.1 thereof:

" "**Division**" means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons, with the dividing Person either continuing or terminating its existence as part of such division, including, without limitation, as contemplated under Section 18-217 of the Delaware Limited Liability Company Act for limited liability companies formed under Delaware law, or any analogous action taken pursuant to any other applicable law with respect to any corporation, limited liability company, partnership or other entity."

" "**Increase Approval**" means the occurrence of all of the following: (a) Borrower has requested an increase to the Revolving Line, (b) Bank has received all necessary internal and credit approvals for such increase, (c) Borrower has delivered financial and other information required by Bank, which shall be satisfactory to Bank in its sole discretion, (d) Borrower has agreed to any modifications to the terms of the Loan Documents proposed by Bank in its sole but reasonable discretion, (e) no Event of Default exists at the time the requested increase is to go into effect or would exist as a result of such increase, and (f) Bank has provided written approval in its sole discretion that such increase will occur. For clarity, upon satisfaction of each of the conditions in (a) through (e), the determination of whether to provide any such increase shall be in Bank's sole discretion and shall in no event occur automatically."

" "**Increase Event**" occurs when both (a) the Increase Approval has occurred and (b) Bank has confirmed to Borrower in writing that the Revolving Line will be increased."

" "**Milestone Event 2**" means delivery by Borrower to Bank, on or prior to December 31, 2020, of evidence satisfactory to Bank in Bank's sole and absolute discretion that Borrower has achieved net revenue (calculated with respect to Borrower only and not on a consolidated basis), determined in accordance with GAAP, of at least Fifty-Five Million Dollars ($55,000,000.00) for a trailing twelve (12) month period ending no later than December 31, 2020 (which twelve (12) month period shall end no earlier than the last day of the first (1st) calendar month ending after the Second Amendment Effective Date).

" "**Second Amendment** Effective **Date**" is December 30, 2019."

" "**Second Draw Period**" is the period of time commencing upon the occurrence of Milestone Event 2 and continuing through March 31, 2021."

" "**Term B1 Loan Advance**" is defined in Section 2.2.1(a)."

" "**Term B2 Loan Advance**" is defined in Section 2.2.1(a)."

" "**Term C Loan Advance**" is defined in Section 2.2.1(a)."

2.9 Exhibit B (Compliance Certificate). The Compliance Certificate appearing as **Exhibit B** to the Loan Agreement is deleted in its entirety and replaced with the Compliance Certificate attached as **Schedule 1** attached hereto.

3. Limitation of Amendments.

3.1 The amendments set forth in Section 2 above are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Bank may now have or may have in the future under or in connection with any Loan Document.

3.2 This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

4. Representations and Warranties. To induce Bank to enter into this Amendment, Borrower hereby represents and warrants to Bank as follows:

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Bank on the Effective Date remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any law or regulation binding on or affecting Borrower, (b) any contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Borrower, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on Borrower, except as already has been obtained or made; and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

5. Updated Perfection Certificate. Borrower has delivered an updated Perfection Certificate in connection with this Amendment (the "**Updated Perfection Certificate**") dated as of the date hereof, which Updated Perfection Certificate shall supersede in all respects that certain Perfection Certificate dated as of February 14, 2019. Borrower agrees that all references in the Loan Agreement to "Perfection Certificate" shall hereinafter be deemed to be a reference to the Updated Perfection Certificate.

6. Integration. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

7. Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

8. Effectiveness. This Amendment shall be deemed effective upon (a) the due execution and delivery to Bank of this Amendment by each party hereto and (b) Borrower's payment to Bank of (i) the fully earned, non-refundable term loan commitment fee in an amount equal to One Hundred Thousand Dollars ($100,000.00), and (ii) Bank's legal fees and expenses incurred in connection with this Amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first written above.

BANK

SILICON VALLEY BANK

By: /s/ Scott McCarty
Name: Scott McCarty
Title: Director

BORROWER

TREACE MEDICAL CONCEPTS, INC.

By: /s/ Robert P. Jordheim
Name: Robert P. Jordheim
Title: CFO

Schedule 1

EXHIBIT B
COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK Date: _____
FROM: TREACE MEDICAL CONCEPTS, INC.

The undersigned authorized officer of TREACE MEDICAL CONCEPTS, INC. ("**Borrower**") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "**Agreement**"), (1) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below, (2) there are no continuing Events of Default, (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement, and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries, if any, relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank. Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	**Required**	**Complies**
Monthly financial statements with Compliance Certificate	Monthly within 30 days	Yes No
Annual financial statements (CPA Audited)	FYE within 150 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
A/R & A/P Agings and Inventory reports	Monthly within 30 days	Yes No
Borrowing Base Reports	Monthly within 30 days	Yes No
Board approved projections	FYE within 30 days and as amended/updated	Yes No

Financial Covenant	Required	Actual	Complies
Achieve as indicated:			
Minimum Revenue	$*	$	Yes No

* *as set forth in Section 6.9(b)*

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

TREACE MEDICAL CONCEPTS, INC.

By: _____

Name: _____

Title: _____

BANK USE ONLY

Received by: _____

AUTHORIZED SIGNER

Date: _____

Verified: _____

AUTHORIZED SIGNER

Date: _____

Compliance Status: Yes No

SCHEDULE 1 TO COMPLIANCE CERTIFICATE

FINANCIAL COVENANTS OF BORROWER

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

Minimum Revenue (Section 6.9(b))

Required: Achieve, to be tested as of the last day of each calendar month commencing with the monthly period ending February 28, 2019, minimum revenue (determined in accordance with GAAP), calculated with respect to Borrower only and not on a consolidated basis, measured on a trailing six (6) month basis, of at least:

Trailing Six (6) Month Period Ending	Minimum Revenue
January 31, 2019	$11,635,688.00
February 28, 2019	$11,605,325.00
March 31, 2019	$11,655,317.00
April 30, 2019	$10,988,513.00
May 31, 2019	$9,995,602.00
June 30, 2019	$8,601,799.00
July 31, 2019	$8,804,409.00
August 31, 2019	$9,331,263.00
September 30, 2019	$9,761,248.00
October 31, 2019	$11,096,755.00
November 30, 2019	$12,688,047.00
December 31, 2019	$15,920,811.00
January 31, 2020	$16,668,682.00
February 29, 2020	$17,324,445.00
March 31, 2020	$17,969,777.00
April 30, 2020	$18,364,010.00
May 31, 2020	$17,567,677.00
June 30, 2020	$15,819,621.00
July 31, 2020	$16,588,565.00
August 31, 2020	$18,253,969.00
September 30, 2020	$19,704,481.00
October 31, 2020	$21,916,674.00

Trailing Six (6) Month Period Ending	Minimum Revenue
November 30, 2020	$25,827,552.00
December 31, 2020	$32,180,378.00

Actual: A. $_____

Is line A equal to or greater than $_____*?

* *As set forth above*

_____ No, not in compliance _____ Yes, in compliance

THIRD AMENDMENT
TO
LOAN AND SECURITY AGREEMENT

This Third Amendment to Loan and Security Agreement (this "**Amendment**") is entered into this 3rd day of August, 2020 by and between **SILICON VALLEY BANK** ("**Bank**") and **TREACE MEDICAL CONCEPTS, INC.**, a Delaware corporation ("**Borrower**"), whose address is 203 Fort Wade Road, Suite 150, Ponte Vedra, Florida 32081.

RECITALS

Bank and Borrower have entered into that certain Loan and Security Agreement dated as of April 18, 2018, as amended by that certain First Amendment to Loan and Security Agreement dated as of February 14, 2019, and as further amended by that certain Second Amendment to Loan and Security Agreement dated as of December 30, 2019 (as the same has been and may from time to time be further amended, modified, supplemented or restated, the "**Loan Agreement**").

Bank has extended credit to Borrower for the purposes permitted in the Loan Agreement.

Borrower has requested that Bank amend the Loan Agreement to (i) increase the Revolving Line, (ii) insert new financial covenants and (iii) make certain other revisions to the Loan Agreement as more fully set forth herein.

Bank has agreed to so amend certain provisions of the Loan Agreement, but only to the extent, in accordance with the terms, subject to the conditions and in reliance upon the representations and warranties set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Loan Agreement.

2. Amendments to Loan Agreement .

2.1 Section 1 (Accounting and Other Terms). Section 1 is amended in its entirety and replaced with the following:

" **1 Accounting and Other Terms**.

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 13. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein."

2.2 Section 2.2.1 (Term Loan Advances). Section 2.2.1 is amended in its entirety and replaced with the following:

"**2.2.1 Term Loan Advances**. [intentionally deleted]."

2.3 Section 2.4(a) (Interest Rate). Section 2.4(a) is amended in its entirety and replaced with the following:

" (a) Interest Rate.

(i) Advances. Subject to Section 2.4(b), the principal amount outstanding under the Revolving Line shall accrue interest at a floating per annum rate equal to (A) at all times prior to the Third Amendment Effective Date, the greater of (i) one percent (1.00%) above the Prime Rate and (ii) six and one-quarter of one percent (6.25%) and (B) at all times after the Third Amendment Effective Date, the greater of (i) one percent (1.00%) above the Prime Rate and (ii) five percent (5.00%), which interest, in each case, shall be payable monthly in accordance with Section 2.4(d) below.

(ii) [intentionally deleted]."

2.4 Section 2.5 (Fees). Section 2.5 is amended by (i) deleting subsection (b) in its entirety and inserting the new subsection (b) in lieu thereof, (ii) deleting "and" appearing at the end of subsection (d), (iii) re-lettering subsection (e) as subsection (f), and (iv) inserting the following new subsection (e):

" (b) Termination Fee. Upon termination of this Agreement or the termination of the Revolving Line for any reason prior to the second (2nd) anniversary of the Third Amendment Effective Date, in addition to the payment of any other amounts then-owing, a termination fee in an amount equal to one percent (1.0 %) of the Revolving Line (the "**Termination Fee**");"

" (e) Anniversary Fee. For each twelve (12) month anniversary of the Third Amendment Effective Date, a non-refundable anniversary fee (each, an "**Anniversary Fee**" and, collectively, the "**Anniversary Fees**") equal to Thirty-One Thousand Two Hundred Fifty Dollars ($31,250.00) which shall be fully earned as of the Third Amendment Effective Date (in a maximum amount of Ninety-Three Thousand Seven Hundred Fifty Dollars ($93,750.00), which for the avoidance of doubt, does not include the 2020 Commitment Fee) and due and payable on the earliest to occur of (i) such twelve (12) month anniversary of the Third Amendment Effective Date, (ii) the Revolving Line Maturity Date, (iii) the occurrence of an Event of Default, provided that such Anniversary Fee shall be due and payable, at the election of Bank and (iv) the termination of this Agreement; and"

2.5 Section 3.4 (Procedures for Borrowing). Section 3.4(b) is amended in its entirety and replaced with the following:

" (b) Term Loan Advances. [intentionally deleted]."

2.6 Section 5.3 (Accounts Receivable; Inventory). Section 5.3 is amended in its entirety and replaced with the following:

"**5.3 Accounts Receivable; Inventory.**

(a) For each Account with respect to which Advances are requested, on the date each Advance is requested and made, such Account shall be an Eligible Account.

(b) All statements made and all unpaid balances appearing in all invoices, instruments and other documents evidencing the Eligible Accounts are and shall be true and correct and all such invoices, instruments and other documents, and all of Borrower's Books are genuine and in all respects what they purport to be. All sales and other transactions underlying or giving rise to each Eligible Account shall comply in all material respects with all applicable laws and governmental rules and regulations. Borrower has no knowledge of any actual or imminent Insolvency Proceeding of any Account Debtor whose accounts are Eligible Accounts in any Borrowing Base Report. To the best of Borrower's knowledge, all signatures and endorsements on all documents, instruments, and agreements relating to all Eligible Accounts are genuine, and all such documents, instruments and agreements are legally enforceable in accordance with their terms.

(c) For any item of Inventory consisting of Eligible Inventory in any Borrowing Base Report, such Inventory (i) consists of finished goods, in good, new, and salable condition, which is not perishable, returned, consigned, obsolete, not sellable, damaged, or defective, and is not comprised of demonstrative or custom inventory, works in progress, packaging or shipping materials, or supplies; (ii) meets all applicable governmental standards; (iii) has been manufactured in compliance with the Fair Labor Standards Act; (iv) is not subject to any Liens, except the first priority Liens granted or in favor of Bank under this Agreement or any of the other Loan Documents; and (v) is located in the United States (A) at the locations identified by Borrower in the Perfection Certificate where it maintains Inventory (or at any location permitted under Section 7.2) and such locations are subject to a bailee waiver/ and or landlord's consent, in form and substance acceptable to Bank in its sole discretion (the "**Third Party Locations**") and has been held at said Third Party Location for less than one hundred eighty (180) days or (B) in the direct possession of Borrower's sales representatives."

2.7 Section 6.2 (Financial Statements, Reports, Certificates). Section 6.2(a) is deleted in its entirety and replaced with the following:

"(a) a Borrowing Base Report (and any schedules related thereto and including any other information requested by Bank with respect to Borrower's Accounts), within thirty (30) days after the end of each month, in which an Advance is outstanding or has been requested;"

2.8 Section 6.3 (Accounts Receivable). Sections 6.3(c) and 6.3(d) are amended in their entirety and replaced with the following:

" (c) Collection of Accounts. Borrower shall direct Account Debtors to deliver or transmit all proceeds of Accounts into a lockbox account, or such other "blocked account" as specified by Bank (either such account, the "**Cash Collateral Account**"). Whether or not an Event of Default has occurred and is continuing, Borrower shall immediately deliver all payments on and proceeds of Accounts to the Cash Collateral Account. Subject to Bank's right to maintain a reserve pursuant to Section 6.3(d), all amounts received in the Cash Collateral Account shall be (i) when a Streamline Period is not in effect, applied to immediately reduce the Obligations under the Revolving Line (unless Bank, in its sole discretion, at times when an Event of Default exists, elects not to so apply such amounts), or (ii) when a Streamline Period is in effect, transferred on a daily basis to Borrower's operating account with Bank. Borrower hereby authorizes Bank to transfer to the Cash Collateral Account any amounts that Bank reasonably determines are proceeds of the Accounts (provided that Bank is under no obligation to do so and this allowance shall in no event relieve Borrower of its obligations hereunder).

(d) Reserves. Notwithstanding any terms in this Agreement to the contrary, at times when an Event of Default exists, Bank may hold any proceeds of the Accounts and any amounts in the Cash Collateral Account that are not applied to the Obligations pursuant to Section 6.3(c) above (including amounts otherwise required to be transferred to Borrower's operating account with Bank when a Streamline Period is in effect) as a reserve to be applied to any Obligations regardless of whether such Obligations are then due and payable."

2.9 Section 6.7(b) (Insurance). Section 6.7(b) is amended in its entirety and replaced with the following:

" (b) Ensure that proceeds payable under any property policy with respect to the Collateral are, at Bank's option, payable to Bank on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy with respect to any Collateral up to One Hundred Thousand Dollars ($100,000.00) with respect to any loss, but not exceeding Two Hundred Thousand Dollars ($200,000.00) in the aggregate for all losses under all casualty policies with respect to the Collateral in any one year, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Bank has been granted a first priority security interest, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy with respect to the Collateral shall, at the option of Bank, be payable to Bank on account of the Obligations."

2.10 Section 6.9 (Financial Covenants). Section 6.9 is amended in its entirety and replaced with the following:

"**6.9. Financial Covenants.**

(a) Minimum Liquidity. Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries) shall maintain at all times, to be tested as of the last day of each month, Liquidity in an amount greater than Three Million Dollars ($3,000,000.00).

(b) Minimum Revenue. Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries) shall achieve, to be tested on the last day of each calendar year, annual Revenue from sales of the Procedure:

(i) during the twelve-month period beginning on January 1, 2021, of at least $50,000,000;

(ii) during the twelve-month period beginning on January 1, 2022, of at least $60,000,000;

(iii) during the twelve-month period beginning on January 1, 2023, of at least $70,000,000; and

(iv) during the twelve-month period beginning on January 1, 2024 and during each twelve-month period beginning on each January 1 thereafter, of at least $80,000,000."

2.11 Section 6.10(b) (Protection of Intellectual Property Rights). Section 6.10(b) is amended in its entirety and replaced with the following:

" (b) Provide written notice to Bank within ten (10) days of entering or becoming bound by any Restricted License (other than over-the-counter software that is commercially available to the public)."

2.12 Section 8 (Events of Default). The Loan Agreement is amended by inserting the following new provision to appear as Section 8.12 thereof:

" **8.12. CRG Credit Agreement**. The occurrence of an Event of Default (as defined in the CRG Credit Agreement) under the CRG Credit Agreement."

2.13 Section 9.4 (Application of Payments and Proceeds Upon Default). Section 9.4 is amended in its entirety and replaced with the following:

" **9.4 Application of Payment and Proceeds Upon Default.** If an Event of Default has occurred and is continuing (or at any time on the terms set forth in

Section 6.3(c), regardless of whether an Event of Default exists), Bank shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Bank shall pay any surplus to Borrower by credit to the Designated Deposit Account or to other Persons legally entitled thereto; Borrower shall remain liable to Bank for any deficiency. If Bank, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Bank shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Bank of cash therefor."

2.14 Section 13 (Definitions). The definition of "Eligible Accounts" is amended by (i) deleting subsection (s) in its entirety and inserting the following new subsection (s) in lieu thereof, (ii) deleting "and" at the end of subsection (z), (iii) relettering subsection (aa) as subsection (bb), and (iv) inserting the following new subsection (aa):

"(s) Accounts for which the Account Debtor has not been invoiced (other than Eligible Unbilled Accounts, provided that a Streamline Period is in effect);"

"(aa) Accounts generated from licenses with respect to Borrower's Intellectual Property; and"

2.15 Section 13 (Definitions). The definition of "Permitted Indebtedness" is amended by (i) deleting "and" appearing at the end of subsection (g), (ii) deleting the "." at the end of subsection (h) and inserting "; and" in lieu thereof, and (iii) inserting the following new subsection (i):

" (i) subject to the execution of the Intercreditor Agreement and delivery to Bank of the executed CRG Credit Agreement, in each case, in form and substance satisfactory to Bank, Borrower's Indebtedness to the CRG Lenders pursuant to that certain Term Loan Agreement dated as of July 31, 2020, by and between Borrower, the Subsidiary Guarantors (as defined in the CRG Credit Agreement) party thereto, the Lenders (as defined in the CRG Credit Agreement) party thereto, and CRG Agent (as the same may from time to time be further amended, modified, supplemented or restated, the "**CRG Credit Agreement**")."

2.16 Section 13 (Definitions). The definition of "Permitted Liens" is amended by (i) deleting "and" appearing at the end of subsection (h), (ii) deleting the "." at the end of subsection (i) and inserting "; and" in lieu thereof, and (iii) inserting the following new subsection (j):

" (j) Liens in favor of CRG Agent securing the Indebtedness described in clause (i) of the definition of Permitted Indebtedness; provided, however, that such Liens are only on the CRG Senior Collateral (as defined in the Intercreditor Agreement);"

2.17 Section 13 (**Definitions**). The following terms and their respective definitions set forth in Section 13.1 of the Loan Agreement are amended in their entirety and replaced with the following:

" "**Borrowing Base**" is (a) eighty-five percent (85.0%) of Eligible Accounts plus (b) at all times when a Streamline Period is in effect, the lesser of (i) fifty percent (50.0%) of the value of Borrower' s Eligible Inventory (valued at the lower of cost or wholesale market value) and (ii) Three Million Dollars ($3,000,000.00), in each case, as determined by Bank from Borrower's most recent Borrowing Base Report; provided, however, that Bank, upon prior notice to and in consultation with Borrower, has the right to decrease the foregoing percentage in its good faith business judgment to mitigate the impact of events, conditions, contingencies, or risks which may adversely affect the Collateral or its value."

" "***Cash Equivalents***" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than two (2) years from the date of acquisition, (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor's Ratings Group or Moody's Investors Service, Inc., (c) demand deposit accounts, savings deposit accounts and certificates of deposit maturing no more than eighteen (18) months after issue, (d) money market funds publicly traded or regulated by a Governmental Authority at least ninety five percent (95%) of the assets of which are invested in cash equivalents of the type described in clauses (a) through (c) above, and (e) any other similar investments made pursuant to Borrower's board approved investment policy."

" "**Copyright**" is defined in the definition of Intellectual Property."

" "**Credit Extension**" is any Advance, any Overadvance, or any other extension of credit by Bank for Borrower's benefit."

" "**Draw Period**" is the period of time commencing upon the occurrence of the Milestone Event and ending upon the Third Amendment Effective Date."

" "**Eligible Unbilled Accounts**" are Accounts that meet all of the following criteria: (a) such Accounts are unconditionally and contractually owing to Borrower and deemed acceptable by Bank in its sole and absolute discretion; (b) such Accounts have not been billed; (c) such Accounts meet all of Borrower's representations and warranties in Section 5.3 of this Agreement; and (d) such Accounts are Eligible Accounts, but for subsection (s) of the definition of Eligible Accounts; provided, however, that the aggregate amount of Eligible Unbilled Accounts shall not at any time exceed ten percent (10.0%) of the lesser of (i) amount of the Borrowing Base and (ii) the Revolving Line. For the sake of clarity, at any time that an Account no longer meets each of the above-referenced criteria (including, without limitation, when such Account is billed), such Account shall no longer be an Eligible Unbilled Account."

" "***Intellectual Property***" means, collectively, all copyrights, copyright registrations and applications for copyright registrations of Borrower, including all renewals and extensions thereof, all rights to recover for past, present or future infringements thereof and all other rights whatsoever accruing thereunder or pertaining thereto (collectively, "***Copyrights***"), all patents and patent applications of Borrower, including the inventions and improvements described and claimed therein together with the reissues, divisions, continuations, renewals, extensions and continuations in part thereof, all damages and payments for past or future infringements thereof and rights to sue therefor, and all rights corresponding thereto throughout the world and all income, royalties, damages and payments now or hereafter due and/or payable under or with respect thereto (collectively, "***Patents***"), and all trade names, trademarks and service marks, logos, trademark and service mark registrations, and applications for trademark and service mark registrations of Borrower, including all renewals of trademark and service mark registrations, all rights to recover for all past, present and future infringements thereof and all rights to sue therefor, and all rights corresponding thereto throughout the world (collectively, "***Trademarks***"), together, in each case, with the product lines and goodwill of the business connected with the use of, and symbolized by, each such trade name, trademark and service mark, together with (a) all inventions, processes, production methods, proprietary information, know- how, trade secrets, domain names and websites; (b) all licenses or user or other agreements granted by or to Borrower with respect to any of the foregoing; (c) all information, customer lists, identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, materials standards, processing standards, performance standards, catalogs, computer and automatic machinery software and programs; (d) all field repair data, sales data and other information relating to sales or service of products now or hereafter manufactured; (e) all accounting information and all media in which or on which any information or knowledge or data or records may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; (f) all licenses, consents, permits, variances, certifications and approvals of governmental agencies now or hereafter held by Borrower; (g) source codes, proprietary or confidential information, procedures, data bases, skill, expertise, experience, processes, models, materials, records and (h) all causes of action, claims and warranties now or hereafter owned or acquired by Borrower in respect of any of the items listed above, in each case whether now or hereafter owned or used."

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

" "**Loan Documents**" are, collectively, this Agreement and any schedules, exhibits, certificates, notices, and any other documents related to this Agreement, the Perfection Certificate, the Warrant, the Intercreditor Agreement, any Control Agreement, any Bank Services Agreement, any subordination agreement, any note, or notes or guaranties executed by Borrower or any Guarantor, and any other present or future agreement by Borrower and/or any Guarantor with or for the benefit of Bank, all as amended, restated, or otherwise modified."

" "**Obligations**" are Borrower's obligations to pay when due any debts, principal, interest, fees, Bank Expenses, the Termination Fee, the Revolving Line Commitment Fee, the Prepayment Premium, the Final Payment, the Anniversary Fee, and other amounts Borrower owes Bank now or later, whether under this Agreement, the other Loan Documents (other than the Warrant), or otherwise, including, without limitation, all obligations relating to Bank Services and interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Borrower assigned to Bank, and to perform Borrower's duties under the Loan Documents (other than the Warrant).

" "**Patent**" is defined in the definition of Intellectual Property."

" "**Revolving Line**" is an aggregate principal amount equal to Ten Million Dollars ($10,000,000.00)."

" "**Revolving Line Maturity Date**" is August 3, 2024."

" "**Second Draw Period**" is the period of time commencing upon the occurrence of Milestone Event 2 and ending upon the Third Amendment Effective Date."

" "**Trademark**" is defined in the definition of Intellectual Property."

2.18 Section 13.1 (Definitions). The Loan Agreement is amended by inserting the following new terms and their respective definitions to appear alphabetically in Section 13.1 thereof:

" "**2020 Commitment Fee**" is defined in Section 8 of the Third Amendment."

" "**Adjusted Quick Ratio**" is, calculated with respect to Borrower only and not on a consolidated basis, the ratio of (a) Quick Assets to (b) Current Liabilities."

" "**CRG Agent**" is CRG Servicing LLC, a Delaware limited liability company in its capacity as administrative agent and collateral agent."

" "**CRG Credit Agreement**" is defined in subsection (i) of the definition of "Permitted Indebtedness."

" "**CRG Lenders**" means the Lenders (as defined in the CRG Credit Agreement) from time to time party to the CRG Credit Agreement."

" "**Current Liabilities**" are all obligations and liabilities of Borrower to Bank, plus, without duplication, the aggregate amount of Borrower's Total Liabilities that mature within one (1) year."

" "**Eligible Inventory**" means Inventory that meets all of Borrower's representations and warranties in Section 5.3 and is otherwise acceptable to Bank in all respects."

" "**Intercreditor Agreement**" means that certain Intercreditor Agreement by and between Bank and CRG Agent dated as of August 3, 2020, as may be amended, modified, supplemented, and/or restated from time to time."

" "**Liquidity**" means the balance of unencumbered (other than (i) Permitted Liens (*provided*, that there is no Event of Default under the Loan Agreement) and (ii) bankers liens, rights of setoff and similar Liens incurred on deposits, security accounts or other similar banking and securities intermediary arrangements, in each case, made in the ordinary course of business) cash and Cash Equivalents (which for greater certainty shall not include any undrawn credit lines), in each case to the extent held in an account over which either (a) CRG Agent has a perfected security interest or (b) Bank has a perfected security interest securing the Permitted Priority Debt (as defined in the CRG Credit Agreement)."

" "**Procedure**" means medical procedures and related products used for corrective alignment via repositioning of the bone or bones causing a bunion deformity in a subject."

" "**Quick Assets**" is, on any date, Borrower's unrestricted and unencumbered cash and Cash Equivalents at Bank and Bank's Affiliates (including, but not limited to, pursuant to Bank's cash sweep products) plus net billed accounts receivable, as determined according to GAAP, plus Eligible Unbilled Accounts."

" "**Revenue**" means, for any period, calculated on a consolidated basis with respect to Borrower and its Subsidiaries, net revenue for such period properly recognized under GAAP, consistently applied, *less* (a) all rebates, refunds, discounts and other price allowances and (b) upfront payments, milestones and other similar one-time payments received by Borrower or any Subsidiary, in each case, that are not related to the sale of products or services (including, for the avoidance of doubt, procedures)."

" "**Streamline Period**" is, on and after the Third Amendment Effective Date, provided no Event of Default has occurred and is continuing, the period (a) commencing on the first (1st) day of the month following the day that Borrower provides to Bank a written report that Borrower has, at all times during the immediately preceding calendar month maintained an Adjusted Quick Ratio, as determined by Bank in its sole but reasonable discretion, of greater than 1.25 to 1.0 (the "**Threshold Ratio**"); and (b) terminating at the election of the Bank on the earlier to occur of (i) the occurrence of an Event of Default, and (ii) the first (1st) day thereafter in which Borrower fails to maintain the Threshold Ratio, as determined by Bank in its discretion. Upon the termination of a Streamline Period, Borrower must maintain the Threshold Ratio each consecutive day for one (1) month as determined by Bank in its discretion, prior to entering into a subsequent Streamline Period. Borrower shall give Bank prior written notice of Borrower's election to enter into any such Streamline Period, and each such subsequent Streamline Period shall commence on the first (1st) day of the monthly period following the date Bank determines, in its sole but reasonable discretion, that the Threshold Ratio has been achieved."

" "**Third Amendment**" is that certain Third Amendment to Loan and Security Agreement by and between Borrower and Bank dated as of August 3, 2020."

" "**Third Amendment Effective Date**" is August 3, 2020."

" "**Threshold Ratio**" is defined in the definition of Streamline Period."

" "**Total Liabilities**" is, determined on any day, obligations that should, under GAAP, be classified as liabilities on Borrower's consolidated balance sheet, including all Indebtedness."

" "***UCC***" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect in the State of New York."

2.19 Exhibit A (Collateral Description). The Collateral Description appearing as **Exhibit A** to the Loan Agreement is deleted in its entirety and replaced with the Collateral Description attached as **Schedule 1** attached hereto.

2.20 Exhibit B (Compliance Certificate). The Compliance Certificate appearing as **Exhibit B** to the Loan Agreement is deleted in its entirety and replaced with the Compliance Certificate attached as **Schedule 2** attached hereto.

3. Limitation of Amendments.

3.1 The amendments set forth in Section 2 above are effective for the purposes set forth herein and shall be limited precisely as written and shall not be deemed to (a) be a consent to any amendment, waiver or modification of any other term or condition of any Loan Document, or (b) otherwise prejudice any right or remedy which Bank may now have or may have in the future under or in connection with any Loan Document.

3.2 This Amendment shall be construed in connection with and as part of the Loan Documents and all terms, conditions, representations, warranties, covenants and agreements set forth in the Loan Documents, except as herein amended, are hereby ratified and confirmed and shall remain in full force and effect.

4. Representations and Warranties. To induce Bank to enter into this Amendment, Borrower hereby represents and warrants to Bank as follows:

4.1 Immediately after giving effect to this Amendment (a) the representations and warranties contained in the Loan Documents are true, accurate and complete in all material respects as of the date hereof (except to the extent such representations and warranties relate to an earlier date, in which case they are true and correct as of such date), and (b) no Event of Default has occurred and is continuing;

4.2 Borrower has the power and authority to execute and deliver this Amendment and to perform its obligations under the Loan Agreement, as amended by this Amendment;

4.3 The organizational documents of Borrower delivered to Bank on the Effective Date remain true, accurate and complete and have not been amended, supplemented or restated and are and continue to be in full force and effect;

4.4 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, have been duly authorized;

4.5 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not and will not contravene (a) any law or regulation binding on or affecting Borrower, (b) any contractual restriction with a Person binding on Borrower, (c) any order, judgment or decree of any court or other governmental or public body or authority, or subdivision thereof, binding on Borrower, or (d) the organizational documents of Borrower;

4.6 The execution and delivery by Borrower of this Amendment and the performance by Borrower of its obligations under the Loan Agreement, as amended by this Amendment, do not require any order, consent, approval, license, authorization or validation of, or filing, recording or registration with, or exemption by any governmental or public body or authority, or subdivision thereof, binding on Borrower, except as already has been obtained or made; and

4.7 This Amendment has been duly executed and delivered by Borrower and is the binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, liquidation, moratorium or other similar laws of general application and equitable principles relating to or affecting creditors' rights.

5. Post-Closing Deliverables. Borrower shall deliver to Bank within thirty (30) days after the Third Amendment Effective Date, evidence satisfactory to Bank that the insurance policies and endorsements of Borrower required by Section 6.7 of the Loan Agreement are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank.

6. Ratification of Perfection Certificate. Borrower hereby ratifies, confirms and reaffirms, all and singular, the terms and disclosures contained in a certain Perfection Certificate dated as of December 30, 2019, as amended as set forth on **Schedule 3** attached hereto (as amended, the "Perfection Certificate"), between Borrower and Bank, and acknowledges, confirms and agrees the disclosures and information Borrower provided to Bank in said Perfection Certificate have not changed, as of the date hereof, except as set forth on **Schedule 3** attached hereto.

7. Integration. This Amendment and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Amendment and the Loan Documents merge into this Amendment and the Loan Documents.

8. Counterparts. This Amendment may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

9. Effectiveness. This Amendment shall be deemed effective upon (a) the due execution and delivery to Bank of this Amendment by each party hereto and (b) Borrower's payment to Bank of (i) the fully earned, non-refundable commitment fee in an amount equal to Thirty-One Thousand Two Hundred Fifty Dollars ($31,250.00) (the "**2020 Commitment Fee**"), and (ii) Bank's legal fees and expenses incurred in connection with this Amendment.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered as of the date first written above.

BANK	**BORROWER**
SILICON VALLEY BANK	TREACE MEDICAL CONCEPTS, INC.
By: /s/ Scott McCarthy	By: /s/ John T. Treace
Name: Scott McCarthy	Name: John T. Treace
Title: Director	Title: CEO

Schedule 1
EXHIBIT A – COLLATERAL DESCRIPTION

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

(a) Accounts (other than IP/Equipment Accounts (as defined below)), (b) Inventory, (c) cash, Cash Equivalents, short and long term investments (other than any CRG Pledged Equity, regardless of whether such CRG Pledged Equity (x) is held in a securities account or (y) constitutes an investment), all bank accounts including, without limitation, all operating accounts, depository accounts, savings accounts, and securities accounts, and all property contained therein (other than any CRG Pledged Equity, regardless of whether such CRG Pledged Equity is held in a securities account), (d) all Debtor's books and records relating to the foregoing, and (e) all proceeds of all of the foregoing (collectively, the "ABL Senior Collateral"); *provided*, *however*, *that* the Collateral shall not include the following: (i) any right, title or interest of Borrower in any Intellectual Property or any licenses thereof, (ii) any Accounts or proceeds arising from the sale, transfer, licensing or other disposition of any Intellectual Property (or licenses thereto) or from the sale, transfer, lease or other disposition of equipment, (provided in each case, with respect to cash or Cash Equivalent proceeds, solely to the extent that such cash proceeds constitute CRG Cash Collateral) (collectively, "***IP/Equipment Accounts***"), (iii) equipment, (iv) to the extent evidencing, governing, securing or otherwise related to equipment, any general intangibles, chattel paper, instruments or documents, (v) any CRG Pledged Equity, (vi) proceeds of the foregoing clauses (i) through (v) and the proceeds of insurance policies, (provided with respect to cash or Cash Equivalent proceeds, solely to the extent that such cash proceeds or Cash Equivalents constitute CRG Cash Collateral), and (vii) CRG Cash Collateral and the Designated CRG Account.

Capitalized terms used, but not otherwise defined herein, shall have the meaning as set forth:

"**CRG Cash Collateral**" means all cash and Cash Equivalents of Borrower that are Directly Traceable proceeds from (a) the sale or other disposition of the CRG Senior Collateral and which proceeds are held in the Designated CRG Account, (b) insurance policies with respect to any CRG Senior Collateral and which proceeds are held in the Designated CRG Account, and (c) the sale or other disposition of the CRG Senior Collateral or the proceeds of insurance policies with respect to any CRG Senior Collateral and which proceeds, in either case, are inadvertently deposited into a deposit or securities account that is not the Designated CRG Account (including a Non-Designated CRG Account); *provided*, *that* no later than the date seven (7) business days after the date such proceeds were inadvertently deposited into such account, CRG Agent has given Bank notice thereof.

"**CRG Pledged Equity**" means, collectively, the Equity Interests of each Obligor and each subsidiary and joint venture of an Obligor, whether now or hereafter owned, together in each case with (a) all certificates representing the same, (b) all shares, securities, moneys or other property representing a dividend on or a distribution or return of capital on or in respect of any CRG Pledged Equity, or resulting from a split-up, revision, reclassification or other like change of any CRG Pledged Equity or otherwise received in exchange therefor, and any warrants, rights or options issued to the holders of, or otherwise in respect of, any CRG Pledged Equity, and (c) all Equity Interests of any successor entity of any merger or consolidation of an Obligor or any subsidiary or joint venture thereof.

"**CRG Senior Collateral**" means all collateral in which CRG Agent has a security interest which, for the avoidance of doubt, excludes the ABL Senior Collateral.

"**Designated CRG Account**" means Borrower's account number ending x190 (last 3 digits) maintained with Silicon Valley Bank, which account is to be used solely to maintain CRG Cash Collateral and in which the CRG Agent holds a perfected first-priority security interest subject to a control agreement in form and substance acceptable to the CRG Agent and to which, at the direction of the CRG Agent, CRG Cash Collateral is deposited from time to time, which for the avoidance of doubt shall not include, subject to Section 16(c) of the Intercreditor Agreement, any ABL Senior Collateral.

"**Directly Traceable**" means, with respect to any cash or Cash Equivalent proceeds of CRG Senior Collateral (including any proceeds of insurance policies with respect thereto), that the deposit of the cash or Cash Equivalent proceeds from the sale or other disposition of the such CRG Senior Collateral (or from the insurance policy related thereto) into the applicable account shall have been documented, either by bank records relating to such deposit (e.g. copies of a deposited check or record of incoming funds transfers from the applicable purchaser, lessee or licensee of such CRG Senior Collateral), invoices, sale, license or lease agreements or other reasonable documentation that links the sale or other disposition of such CRG Senior Collateral (or the proceeds of the insurance policy related thereto) to the deposit of funds into the applicable account; provided, that to the extent such account is a Non-Designated CRG Account, upon request, Silicon Valley Bank shall provide to CRG Agent any bank records in its possession relating to such deposit (and the Obligors hereby expressly consent thereto).

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

"**Non-Designated CRG Account**" means the Borrower's deposit accounts or securities accounts maintained by Silicon Valley Bank that do not constitute the Designated CRG Account.

"**Obligors**" means the Borrower and each other obligor under either the (i) Intercreditor Agreement and (ii) Loan Agreement.

Schedule 2

Exhibit B

COMPLIANCE CERTIFICATE

TO: SILICON VALLEY BANK Date: _____
FROM: TREACE MEDICAL CONCEPTS, INC.

The undersigned authorized officer of TREACE MEDICAL CONCEPTS, INC. ("**Borrower**") certifies that under the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "**Agreement**"), (1) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below, (2) there are no continuing Events of Default, (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date, (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.9 of the Agreement, and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries, if any, relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Bank. Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

Please indicate compliance status by circling Yes/No under "Complies" column.

Reporting Covenants	**Required**	**Complies**
Monthly financial statements with Compliance Certificate	Monthly within 30 days	Yes No
Annual financial statements (CPA Audited)	FYE within 150 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
A/R & A/P Agings and Inventory reports	Monthly within 30 days	Yes No

Borrowing Base Reports	Within thirty (30) days after the end of each month, in which an Advance is outstanding or has been requested	Yes No
Board approved projections	FYE within 30 days and as amended/updated	Yes No

Streamline	**Required**	**Actual**	**Eligible**
Achieve as indicated:			
Adjusted Quick Ratio	> 1.25:1.0	_____:1.0	Yes No

Financial Covenant	**Required**	**Actual**	**Complies**
Achieve as indicated:			
Liquidity	$_____*	$_____	Yes No
Minimum Revenue	$_____**	$_____	Yes No

* *as set forth in Section 6.9(a)*

** *as set forth in Section 6.9(b)*

The following financial covenant analyses and information set forth in Schedule 1 attached hereto are true and accurate as of the date of this Certificate.

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

TREACE MEDICAL CONCEPTS, INC.

By: _____
Name: _____
Title: _____

BANK USE ONLY

Received by: _____
AUTHORIZED SIGNER
Date: _____
Verified: _____
AUTHORIZED SIGNER
Date: _____
Compliance Status: Yes No

SCHEDULE 1 TO COMPLIANCE CERTIFICATE

FINANCIAL COVENANTS OF BORROWER

In the event of a conflict between this Schedule and the Loan Agreement, the terms of the Loan Agreement shall govern.

Dated: _____

Minimum Liquidity (Section 6.9(a))

Required: Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries) shall maintain at all times, to be tested as of the last day of each month, Liquidity in an amount greater than Three Million Dollars ($3,000,000.00).

Actual: A. $_____

Is line A equal to or greater than $_____ *?
** As set forth above*

_____ No, not in compliance _____Yes, in compliance

Minimum Revenue (Section 6.9(b))

Required: Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries) shall achieve, to be tested on the last day of each calendar year, annual Revenue from sales of the Procedure:

during the twelve-month period beginning on January 1, 2021, of at least $50,000,000;

during the twelve-month period beginning on January 1, 2022, of at least $60,000,000;

during the twelve-month period beginning on January 1, 2023, of at least $70,000,000; and

during the twelve-month period beginning on January 1, 2024 and during each twelve-month period beginning on each January 1 thereafter, of at least $80,000,000."

Actual: A. $_____

Is line A equal to or greater than $_____ *?
** As set forth above*

_____ No, not in compliance _____Yes, in compliance

Schedule 3

Updates to Perfection Certificate

1. The information in Schedule 1(e) and Schedule 1(f) is replaced in its entirety by the attached Schedule 1(e/f).

2. The information in Schedule 2(c) is replaced in its entirety by the attached Schedule 2(c).

3. The information in Schedule 4(b) and Schedule 4(c) is replaced in its entirety by attached Schedule 4(b/c).

4. The information in Schedule 5(a) is replaced in its entirety by the attached Schedule 5(a).

5. The list of Patents, Patent Applications, Trademarks and Trademark application in Schedule 5(a) are amended and restated in its entirety to be replaced by:

Patent Applications and Registered Patents

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	15/210,426	14-Jul-2016	9,936,994	10-Apr-2018
Treace Medical Concepts, Inc.	BONE HARVESTER AND BONE MARROW REMOVAL SYSTEM AND METHOD	US	14/724,072	28-May-2015	9,925,068	27-Mar-2018
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	14/990,574	07-Jan-2016	9,687,250	27-Jun-2017
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	14/981,335	28-Dec-2015	9,622,805	18-Apr-2017
Treace Medical Concepts, Inc.	INTRA-OSSEOUS PLATE SYSTEM AND METHOD	US	15/148,774	06-May-2016	10,653,467	19-May-2020
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	15/603,056	23-May-2017	10,603,046	31-Mar-2020
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	15/809,298	10-Nov-2017	10,582,936	10-Mar-2020
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	US	15/267,531	16-Sep-2016	10,575,862	03-Mar-2020
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	16/593,153	04-Oct-2019	10,561,426	18-Feb-2020

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE POSITIONING AND CUTTING SYSTEM AND METHOD	US	15/894,702	12-Feb-2018	10,555,757	11-Feb-2020
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	15/809,276	10-Nov-2017	10,524,808	07-Jan-2020
Treace Medical Concepts, Inc.	OSTEOTOMY PROCEDURE FOR CORRECTING BONE MISALIGNMENT	US	15/687,986	28-Aug-2017	10,512,470	24-Dec-2019
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	15/236,464	14-Aug-2016	10,342,590	09-Jul-2019
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	15/910,428	02-Mar-2018	10,335,220	02-Jul-2019
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	US	14/990,368	07-Jan-2016	10,245,088	02-Apr-2019
Treace Medical Concepts, Inc.	BONE PLATING KIT FOR FOOT AND ANKLE APPLICATIONS	US	15/047,343	18-Feb-2016	10,245,086	02-Apr-2019
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	15/452,236	07-Mar-2017	10,045,807	14-Aug-2018
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING COMPRESSOR-DISTRACTOR AND INSTRUMENT PROVIDING SLIDING SURFACE	AU	2020200936	10-Feb-2020		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING COMPRESSOR-DISTRACTOR AND INSTRUMENT PROVIDING SLIDING SURFACE	US	16/784,742	07-Feb-2020		
Treace Medical Concepts, Inc.	BI-PLANAR INSTRUMENT FOR BONE CUTTING AND JOINT REALIGNMENT PROCEDURE	US	62/883,649	07-Aug-2019		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	SURGICAL PIN POSITIONING LOCK	US	62/899,723	12-Sep-2019		
Treace Medical Concepts, Inc.	MULTI-DIAMETER K-WIRE FOR ORTHOPEDIC APPLICATIONS	US	62/900,391	13-Sep-2019		
Treace Medical Concepts, Inc.	METATARSOPHALANGEAL JOINT PREPARATION AND METATARSAL REALIGNMENT FOR FUSION	US	62/968,244	31-Jan-2020		
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR TREATING METATARSUS ADDUCTUS	US	63/027,340	19-May-2020		
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	16/792,880	17-Feb-2020		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	AU	2016294588	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	AU	2016308461	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	AU	2016323600	16-Sep-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	AU	2016308483	14-Aug-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	AU	2016205290	07-Jan-2016		
Treace Medical Concepts, Inc.	INTRA-OSSEOUS PLATE SYSTEM AND METHOD	US	16/877,159	18-May-2020		
Treace Medical Concepts, Inc.	OSTEOTOMY PROCEDURE FOR CORRECTING BONE MISALIGNMENT	US	15/687,994	28-Aug-2017		
Treace Medical Concepts, Inc.	DEVICES AND TECHNIQUES FOR PERFORMING AN OSTEOTOMY PROCEDURE ON A FIRST METATARSAL TO CORRECT A BONE MISALIGNMENT	US	16/812,487	09-Mar-2020		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	FULCRUM FOR TARSAL-METATARSAL JOINT PROCEDURE	US	15/905,495	26-Feb-2018		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	JP	2017536855	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	JP	2018507707	12-Aug-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	JP	2018501919	14-Jul-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	JP	2018514331	16-Sep-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	CA	2973105	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	CA	2991424	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	CA	2995627	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	CA	2998481	16-Sep-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	CA	2998727	14-Aug-2016		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	EP	167354059	07-Jan-2016		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	EP	168251767	14-Jul-2016		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	EP	168376242	14-Aug-2016		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	EP	168376119	12-Aug-2016		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	EP	168473676	16-Sep-2016		
Treace Medical Concepts, Inc.	PIVOTABLE BONE CUTTING GUIDE USEFUL FOR BONE REALIGNMENT AND COMPRESSION TECHNIQUES	US	15/047,288	18-Feb-2016		
Treace Medical Concepts, Inc.	BONE CUTTING GUIDE SYSTEMS AND METHODS	US	15/210,497	14-Jul-2016		
Treace Medical Concepts, Inc.	BONE HARVESTER AND BONE MARROW REMOVAL SYSTEM AND METHOD	US	15/894,686	12-Feb-2018		
Treace Medical Concepts, Inc.	BONE POSITIONING AND PREPARING GUIDE SYSTEMS AND METHODS	US	16/031,855	10-Jul-2018		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	16/731,612	31-Dec-2019		
Treace Medical Concepts, Inc.	BONE PLATING KIT FOR FOOT AND ANKLE APPLICATIONS	US	16/278,264	18-Feb-2019		
Treace Medical Concepts, Inc.	BONE PLATING SYSTEM AND METHOD	US	16/278,255	18-Feb-2019		
Treace Medical Concepts, Inc.	BONE POSITIONING GUIDE	US	16/422,557	24-May-2019		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	16/448,357	21-Jun-2019		
Treace Medical Concepts, Inc.	TARSAL-METATARSAL JOINT PROCEDURE UTILIZING FULCRUM	US	16/505,363	08-Jul-2019		
Treace Medical Concepts, Inc.	COMPRESSOR-DISTRACTOR FOR ANGULARLY REALIGNING BONE PORTIONS	US	16/508,817	11-Jul-2019		

Owner (Borrower/Grantor)	Title	Juris-diction	Serial No.	Filing Date	Patent No.	Issue Date
Treace Medical Concepts, Inc.	MULTI-DIAMETER BONE PIN FOR INSTALLING AND ALIGNING BONE FIXATION PLATE WHILE MINIMIZING BONE DAMAGE	US	16/510,682	12-Jul-2019		
Treace Medical Concepts, Inc.	JOINT SPACER SYSTEMS AND METHODS	US	16/750,829	23-Jan-2020		
Treace Medical Concepts, Inc.	BONE POSITIONING AND CUTTING SYSTEM AND METHOD	US	16/730,424	30-Dec-2019		
Treace Medical Concepts, Inc.	COMPRESSOR-DISTRACTOR FOR ANGULARLY REALIGNING BONE PORTIONS	WO	US2019/041365	11-Jul-2019		
Treace Medical Concepts, Inc.	MULTI-DIAMETER BONE PIN FOR INSTALLING AND ALIGNING BONE FIXATION PLATE WHILE MINIMIZING BONE DAMAGE	WO	US2019/041685	12-Jul-2019		

Trademarks, Trademark Applications and Trademark Licenses

Owner (Borrower/Grantor)	Juris-diction	Trademark	Registration No./ Serial No.	Application Date	Registration Date
Treace Medical Concepts, Inc.	US	A STEP AHEAD IN FOOT AND ANKLE SURGERY	SN: 86203939 RN: 4969221	02/25/2014	05/31/2016
Treace Medical Concepts, Inc.	US	ALIGN MY TOE	SN: 88205984	11/26/2018	
Treace Medical Concepts, Inc.	US	CONTROL 360	RN: 4965818 SN: 86535501	02/15/205	05/24/2016
Treace Medical Concepts, Inc.	US	FAST GRAFTER	RN: 5968431 SN: 88096937	08/29/2018	01/21/2020
Treace Medical Concepts, Inc.	US	FIX IT RIGHT THE FIRST TIME	SN: 88205958	11/26/2018	

Owner (Borrower/Grantor)	Juris-diction	Trademark	Registration No./ Serial No.	Application Date	Registration Date
Treace Medical Concepts, Inc.	US	GOT BUNIONS	SN: 87939860	11/29/2018	
Treace Medical Concepts, Inc.	US	LAPIDESIS	SN: 88796948	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIFIX	SN: 88796963	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIFORCE	SN: 88796975	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIGRAFTER	SN: 88796986	02/13/2020	
Treace Medical Concepts, Inc.	US	LAPIPLASTY	SN: 86802324 RN: 5115724	10/28/2015	01/03/2017
Treace Medical Concepts, Inc.	US	PLANTAR PYTHON	SN: 86692191 RN: 5087675	07/14/2015	11/22/2016
Treace Medical Concepts, Inc.	US	SPEEDSEEKER	SN: 88703745	11/22/2019	
Treace Medical Concepts, Inc.	US	THE FUTURE OF HALLUX VALGUS	SN: 88205976	11/26/2018	
Treace Medical Concepts, Inc.	US	TREACE MEDICAL CONCEPTS	SN: 86535492 RN: 5115111	02/15/2015	01/03/2017
Treace Medical Concepts, Inc.	US		SN: 86536930 RN: 5100983	02/17/2015	12/13/2016

6. The information in Section 5(b) is amended and restated in its entirety to be replaced by:

Institution Name and Address	Account Number	Average Monthly Balance in Account	Name of Account Owner
Silicon Valley Bank 3003 Tasman Drive Santa Clara, CA 95054	3302373312	~ $0 (cash collateral account for daily lock box deposits which sweep to the cash sweep account)	Treace Medical Concepts, Inc.

Institution Name and Address	Account Number	Average Monthly Balance in Account	Name of Account Owner
Silicon Valley Bank 3003 Tasman Drive Santa Clara, CA 95054	3302373308	~ $1.0M (operating account funded by the cash sweep account)	Treace Medical Concepts, Inc.
Silicon Valley Bank 3003 Tasman Drive Santa Clara, CA 95054	6600004223	~ $10.0M (Investment/ Cash sweep account. Average January through June 2020)	Treace Medical Concepts, Inc.

7. The information in Section 6(a) is amended and restated in its entirety to be replaced by: (i) Indebtedness of the Borrower under the Paycheck Protection Program and evidenced by that certain U.S. Small Business Administration Paycheck Protection Program Note dated as of April 22, 2020, executed by the Borrower in favor of Silicon Valley Bank. (ii) $5 million credit facility with SVB dated April 18, 2018 with $0.00 outstanding as of July 31, 2020. $10 million debt facility dated February 14, 2019 with $10 million currently outstanding. $10 million debt facility dated December 27, 2019 with $10 million currently outstanding.

8. The information listed in Section 8(a) is deleted in its entirety and “None” is inserted in such section.

Schedule 1(e/f)
See attached.

Jurisdictions Sold To

Alabama
Arizona
Arkansas
California
Colorado
Connecticut
Florida
Georgia
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
South Dakota
Tennessee

Texas
Utah
Vermont
Virginia
Washington
Washington DC
West Virginia
Wisconsin
Wyoming

Schedule 2(c)
See attached.

TMC
Capitalization Table

Authorized	Shares
Class A common (1)	50,000,000
Class B common	1,000,000
Series A preferred	5,000,000
Total	**56,000,000**

Issued	Shares	% FD
Class A common	27,714,623	70.21%
Class B common	—	0.00%
Series A preferred	5,000,000	12.67%
Options granted	5,879,812	14.89%
Warrants	533,332	1.35%
Total oustanding	**39,127,767**	**99.12%**
A. Remaining reserved	348,356	0.88%
Total capitalization	**39,476,123**	**100.00%**

A. Reserved Shares	Shares
Total Reserved	7,000,000
Less: Exercised	(238,500)
Less: Options outstanding	(5,879,812)
Less: Warrants	(533,332)
Remaining reserved	**348,356**

Schedule 4(c)
See attached.

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
1501	W2	East	Southern and Western SC	***	***	***	***	***	***
1502	Cobra Orthopedics, LLC	Central	Account Ruby01 only (WV)	***	***	***	***	***	***
1503	Threshold Medical Limited Company	Mountain	ID, Western WY	***	***	***	***	***	***
1604	W2	East	Northeast FL	***	***	***	***	***	***
1607	W2	Mountain	Metro Dallas TX	***	***	***	***	***	***
1608	New England Fracture and Spine	Northeast	CT,RI,MA	***	***	***	***	***	***
1612	Double Barrel	East	VA, Metro DC	***	***	***	***	***	***
1614	American Medical Management	Lake	Northern IL and IN, southern WI	***	***	***	***	***	***
1616	W2	Central	Western PA and MD, WV	***	***	***	***	***	***
1620	Xcell Orthopedic Sales, LLC	Central	Central and Eastern MI	***	***	***	***	***	***
1623	Foot & Ankle Fixation of Central Florida	East	East Central FL	***	***	***	***	***	***
1625	Amniogenic Solutions, LLC	Mountain	Metro Austin TX	***	***		***	***	***
1704	B-Mor Supply Store	Central	Account Charles01 only (PA)	***	***	***	***	***	***
1705	Ossa Medical, LLC	Central	Mid and Southern IN	***	***	***	***	***	***
1707	Viking Surgical, LLC	South	Metro Kansas City MO/KS	***	***	***	***	***	***
1709	W2	South	Metro Jefferson City MO	***	***	***	***	***	***
1710	W2	West	Metro Las Vegas NV	***	***	***	***	***	***
1711	Western Sky Consulting LLC	Mountain	Western CO, Eastern UT	***	***	***	***	***	***

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
1712	Caromed Orthopaedics LLC	Central	OH	***	***	***	***	***	***
1713	Texas OrthoSolutions LLC	South	Metro Houston TX	***	***	***	***	***	***
1715	Midwest Surgical, Inc.	Mountain	MN	***	***	***	***	***	***
1716	Advanced Medical Systems, Inc.	Northeast	Upstate NY	***	***	***	***	***	***
1717	BioQuest Inc.	Northeast	Mid NY	***	***	***	***	***	***
1720	Team Medical LLC	South	AR	***	***				
1723	Mainely Surgical LLC	Northeast	ME, NH, VT	***	***	***	***	***	***
1724	Ortho Solutions Inc.	Mountain	NE, Western IA	***	***	***	***	***	***
1725	Precision Medical	Mountain	AZ	***	***	***	***	***	***
1726	BAS Solutions	South	Metro Corpus Christi TX	***	***	***	***	***	***
1728	LG Orthopaedics LLC	Northeast	Eastern PA, southern NJ, DE	***	***	***	***	***	***
1729	Le Blanc Medical LLC	South	LA, southern MS	***	***	***	***	***	***
1731	S&B Medical LLC	Mountain	West TX	***	***	***	***	***	***
1732	Vandelay Medical LLC	Mountain	MT, Eastern WY	***	***	***	***	***	***
1733	LaMaster Medical Inc.	South	AL, FL Panhandle	***	***	***	***	***	***
1734	J&M Orthopedic, LLC	Mountain	UT	***	***				
1735	Blackwater Medical	East	West Central FL	***	***				
1802	Bird Medical LLC	Mountain	Mid and Eastern CO	***	***	***	***	***	***
1806	Tri-State Biologics, Inc.	Northeast	NYC, Northern NJ	***	***	***	***	***	***

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
1807	Full-Line Orthopaedics LLC	East	Southern GA, FL Panhandle	***	***	***	***	***	***
1809	Peak Surgical Solutions	South	Eastern TN	***	***	***	***	***	***
1810	JV Medical	Mountain	El Paso TX, NM	***	***				
1812	RK Medical LLC	East	Metro Savannah GA	***	***	***	***	***	***
1814	MJM Medical Solutions	South	Western MO, Southern IL	***	***	***	***	***	***
1815	Orthotechnik, LLC	East	Metro Atlanta GA	***	***	***	***	***	***
1816	MC Medical LLC	Mountain	Mid and Eastern IA	***	***	***	***	***	***
1817	Inge Medical LLC	Mountain	Med and Western OK	***	***	***	***	***	***
1818	X2 Surgical	South	Eastern OK	***	***	***	***	***	***
1819	KDH Distributing, LLC	Central	Western MI	***	***	***	***	***	***
1820	Biosource Medical, Inc.	West	South Los Angeles	***	***	***	***	***	***
1824	Tre Surg Holdings LLC	West	Central Coast CA	***	***	***	***	***	***
1825	W2	East	Miami-Naples-Fort Myers FL	***	***	***	***	***	***
1826	W2	East	West Palm, Fort Pierce, inland FL	***	***	***	***	***	***
1827	Knight Medical Sales and & Consulting, LLC	West	Central Valley CA	***	***	***	***	***	***
1828	TDK Medical, LLC	Mountain	SD	***	***	***	***	***	***
1829	BA Medical LLC	Northeast	Northeastern PA	***	***	***	***	***	***

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
1831	Homewood Surgical, LLC	Northeast	Eastern MD	***	***	***	***	***	***
1832	Fairway Surgical, Inc.	Mountain	ND	***	***	***	***	***	***
1901	W2	Mountain	Metro Fort Worth TX	***	***	***	***	***	***
1902	Lakeside Sales Partners, Inc.	Northeast	Central Upstate NY	***	***	***	***	***	***
1906	Nova Medical LLC	Central	Southern WV	***	***	***	***	***	***
1910	W2	East	Metro Charlotte NC	***	***	***	***	***	***
1911	Sierra Medical Devices LLC	Pacific	NV	***	***	***	***	***	***
1912	W2	Mountain	Metro San Antonio	***	***	***	***	***	***
1915	Pure Medical	Northeast	RI	***	***	***	***	***	***
1916	W2	Northeast	Western MA	***	***	***	***	***	***
1917	Summit Medical	Mountain	NM	***	***	***	***	***	***
1918	W2	Northeast	Metro Boston MA	***	***	***	***	***	***
1919	W2	East	Metro Greenville SC	***	***	***	***	***	***
1920	Redmed, Inc.	South	South TX	***	***	***	***	***	***
1922	W2	Central	Nashville TN	***	***	***	***	***	***
1923	W2	West	Riverside CA	***	***	***	***	***	***
1924	W2	Pacific	Metro Portland OR	***	***	***	***	***	***
1925	Hohman Medical	Pacific	Southwest OR	***	***	***	***	***	***
1926	Long Surgical	South	MS Gulf Coast	***	***	***	***	***	***
1928	W2	Pacific	Seattle WA	***	***	***	***	***	***
1929	W2	East	Columbus GA	***	***	***	***	***	***

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
1930	Singletrack Medical	Mountain	Durango CO	***	***	***	***	***	***
1931	Hampton Roads Premier Orthopedics LLC	Mountain	Hampton VA	***	***	***	***	***	***
1932	AP Orthopedics	East	Winston-Salem NC	***	***	***	***	***	***
1933	W2	South	Central MS	***	***	***	***	***	***
1934	Coastal Ortho Solutions	East	NC	***	***	***	***	***	***
1935	Pirate DME	East	NC	***	***	***	***	***	***
1936	Xtremity Solutions LLC	East	NC	***	***	***	***	***	***
2004	W2	Northeast	Buffalo NY	***	***	***	***	***	***
2005	W2	Central	Kentucky	***	***	***	***	***	***
2007	Reeve Ortho	West	San Bernardino/Riverside CA	***	***	***	***	***	***
2008	Crimson Biomed	Lake	Eastern IA	***	***	***	***	***	***
2010	W2	South	Fort Worth TX	***	***	***	***	***	***
2011	J Curry Enterprises LLC	East	Greenville SC	***	***	***	***	***	***
2012	Finley Enterprises	Pacific	Eastern WA	***	***	***	***	***	***
2013	JTB Medical	Pacific	Vacaville CA, Tracis AFB	***	***	***	***	***	***
2014	Elcock Enterprises, Inc	Pacific	North Central CA	***	***	***	***	***	***
2015	Med G, LLC	East	Sarasota FL	***	***	***	***	***	***
2016	Intermed Specialty LLC	Mountain	El Paso TX	***	***	***	***	***	***

Location ID	Name	Region	Territory	First Name	Last Name	Street Address	City	State	ZIP
2016	Intermed Specialty LLC	Mountain	El Paso TX	***	***	***	***	***	***
2017	Summit Surgical LLC	West	South Bay SF CA	***	***	***	***	***	***
2018	Xcell Orthopedics of Chicago	East	Drs Arndt and Acevedo (Jax)	***	***	***	***	***	***
2018	Xcell Orthopedics of Chicago	East	Drs Arndt and Acevedo (Jax)	***	***	***	***	***	***
2020	W2	Central	Columbus OH	***	***	***	***	***	***
PVB	Treace Medical Concepts, Inc.					203 Fort Wade Road, Suite 150	Ponte Vedra	FL	32081
Keystone	Keystone Manufacturing LLC					6387 Technology Avenue, Suite B	Kalamazoo	MI	49009
J-Pac	J-Pac Medical					25 Centre Road	Somersworth	NH	03878
Medical Component Specialists	Medical Component Specialists					42 William Way	Bellingham	MA	02019
Delano Reg Med Ctr	Delano Regional Medical Center					1401 Garces Hwy	Delano	CA	93215
Des Moines - Dayton	Surgery Center of Des Moines					717 Lyon Street	Des Moines	IA	50309
Harmony - Dr. Hatch	Harmony Surgery Center					2127 East Harmony Road, Suite 200	Fort Collins	CO	80528
Memrl Hrm Woodlands	Memorial Hermann Woodlands Hospital					9250 Pinecroft Drive	The Woodlands	TX	77380
Rockies - Dr. Hatch	Medical Center of the Rockies					2127 East Harmony Road, Suite 200	Fort Collins	CO	80528
Unity Health Dayton	Unity Point Health					802 Kenyon Road	Ft. Dodge	IA	50501

Schedule 5(a)
See attached.

Domain Name

3dbunion.com
3dbunioncorrection.com
3dbunioncorrection.net
3dbunionfix.com
3dbunionsurgery.com
alignmytoe.com
alignmytoe.net
alignmytoes.com
correctmybunion.com
faceliftformyfoot.com
fixitrightthefirsttime.com
fixmytoe.net
getlapiplasty.com
lapaplasty.com
lapi-plasty.com
lapiblasty.com
lapifusedoc.com
lapipalsty.com
lapiplasty.biz
lapiplasty.care
lapiplasty.co
lapiplasty.co.uk
lapiplasty.com
lapiplasty.health
lapiplasty.info
lapiplasty.net
lapiplasty.org
lapiplasty.uk
lapiplastyinfo.com
lapiplastyinfo.net
lapiplastyoutreach.com
lapiplastyprocedure.com
lapiplastyus.com
lapiplsaty.com
lapistiff.com
lapistiffed.com
lapoplasty.com

lapplasty.com
mibunion.com
minimallyinvasivebunions.com
minimallyinvasivehalluxvalgus.com
minimallyinvasivelapidus.com
mis3dbunioncorrection.com
mis3dbunionsurgery.com
mis3dhalluxvalgus.com
misbunioncorrection.com
misbunions.com
mishalluxvalgus.com
mylapiplasty.com
repairmybunion.com
thelapiplasty.com
thelapiplasty.net
thelapiplasty.org
thelapiplastyprocedure.com
thereallapiplasty.com
TREACE.COM
TREACE.NET
treace.org
TREACEMED.COM
TREACEMEDICALCONCEPTS.COM

SEVERANCE AGREEMENT

This SEVERANCE AGREEMENT is dated October 5, 2020, by and between TREACE MEDICAL CONCEPTS, INC., a Delaware corporation (the "Company"), and MARK HAIR (the "Executive").

PURPOSE

In order to induce the Executive to remain in the employment of the Company and its Affiliates, the Company desires to enter into this Severance Agreement (the "Agreement") to provide the Executive with certain benefits if the Executive's employment is terminated within the first 24 months of his employment by the Company or in connection with or following the occurrence of a Change in Control.

NOW, THEREFORE, in consideration of the respective agreements of the parties contained herein, it is agreed as follows:

SECTION 1. ***Definitions***

For purposes of this Agreement, the following terms have the meanings set forth below:

"Affiliate" means, with respect to any individual or entity, any other individual or entity who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such individual or entity.

"Annual Base Salary" means the Executive's annual base salary in effect immediately before his or her Severance.

"Annual Target Bonus Opportunity" means the amount of the annual cash incentive payable to an Executive under a Company or Affiliate annual incentive plan with respect to a given fiscal year of the Company or Affiliate, as applicable, assuming that the target level of performance under the plan was achieved.

"Board" means the Board of Directors of the Company.

"Cause" shall mean:

(a) the Executive's willful and continued failure to attempt in good faith (other than as a result of incapacity due to mental or physical impairment) to substantially perform the duties of his or her position, and such failure is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(b) the Executive's failure to attempt in good faith to carry out, or comply with, in any material respect any lawful and reasonable directive of the Board or the Chief Executive Officer consistent with the duties of his or her position, which is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(c) a material breach by the Executive of the Company's code of ethics, which is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(d) the Executive's conviction, plea of no contest or plea of *nolo contendere*, or imposition of unadjudicated probation for any felony (other than a traffic violation or arising purely as a result of the Executive's position with the Company or an Affiliate and not in connection with any act or omission of the Executive);

(e) the Executive's knowing unlawful use (including being under the influence) or possession of illegal drugs; or

(f) the Executive's commission of a material bad faith act of fraud, embezzlement, misappropriation, willful misconduct, gross negligence, or breach of fiduciary duty, in each case against the Company or any Affiliate.

For the purposes of this definition, no act (or omission) that is (i) taken in good faith and (ii) not adverse to the best interests of the Company or its Affiliates shall be considered to be willful.

"Change in Control" shall have the same meaning as assigned to that term in the Company's 2014 Stock Plan (or any successor to or replacement of such plan).

"Code" means the Internal Revenue Code of 1986, as amended.

"Disability" means a disability within the meaning of Code section 409A(a)(2)(C) and U.S. Treasury Regulations section 1.409A-3(i)(4) (or any successor provision).

"Effective Date" shall mean the date first set forth above.

"Good Reason" means the occurrence of any of the following events, unless the Executive otherwise consents in writing to such event:

(a) any material diminution in the position, authorities, duties or responsibilities assigned to Executive;

(b) a material reduction in the Executive's Annual Base Salary (other than a reduction of less than ten percent (10%) that is applicable to all employees generally);

(b) a material reduction in the Executive's Annual Target Bonus Opportunity as compared to his or her Annual Target Bonus Opportunity for the fiscal year of the Company in which the Severance occurred;

(c) requiring the Executive to relocate his or her principal place of employment to a location more than fifty (50) miles from the Executive's current principal place of employment; or

(d) the failure or refusal by a successor or acquiring company, upon the consummation of a Change in Control, to (i) assume the obligations of the Company under this Agreement or (ii) assume obligations to Executive that are substantially equivalent to or more favorable than the obligations under this Agreement.

The Executive shall provide the Company with a written notice of resignation within ninety (90) days following the occurrence of the event constituting Good Reason and the Company (or its Affiliate, if applicable) shall have a period of thirty (30) days following its receipt of such notice in which to cure such event without such event constituting Good Reason. If the Company (or its Affiliate, if applicable) does not cure the condition or conditions by the end of such thirty (30) day period, the Executive may voluntarily terminate employment within thirty (30) days after the last day of the thirty (30) day cure period. The Executive's voluntary termination of employment other than in accordance with the requirements of this definition shall not constitute termination for Good Reason.

"Release" means a general release of claims against the Company and the other persons specified therein in the form attached hereto as Exhibit A, or in such other form as is required to comply with applicable law.

"Severance" means (a) the involuntary termination of the Executive's employment by the Company or any Affiliate thereof, other than for Cause, death or Disability or (b) a termination of the Executive's employment with the Company and its Affiliates by the Executive for Good Reason, in each case, that occurs on or before the later of (i) September 21, 2022, which is the second anniversary of Executive's employment by the Company, or (ii) in connection with a Change in Control or within an eighteen (18) month period following the occurrence of a Change in Control.

"Severance Date" means the date on which the Executive incurs a Severance.

"Severance Period" means the period following the Executive's Severance pursuant to which the Company owes payments and/or benefits to the Executive pursuant to this Agreement.

"Treasury Regulations" means the final, temporary or proposed regulations issued by the Treasury Department and/or Internal Revenue Service as modified in Title 26 of The United States Code of Federal Regulations. Any references made in this Agreement to specific Treasury Regulations shall also refer to any successor or replacement regulations thereto.

SECTION 2. ***Term of Agreement.*** The term of this Agreement (the "Term") will commence on the Effective Date, and will continue until (a) in the event the Executive's employment is terminated for any reason other than the Executive's Severance, the date of such termination of employment, or (b) in the event the Executive incurs a Severance, the date on which the Company has fulfilled all obligations owed to the Executive pursuant to this Agreement.

SECTION 3. ***Severance Benefits***

3.1 Generally. Subject to Sections 3.6, 5 and 7.2 of this Agreement, the Executive shall be entitled to the severance payments and benefits described below.

3.2 Payment of Accrued Obligations. The Company shall pay to the Executive upon the Executive's Severance a lump sum payment in cash, paid in accordance with applicable law, as soon as practicable but no later than ten (10) days after the Severance Date, equal to the sum of (a) the Executive's accrued annual base salary and any accrued vacation pay through the Severance Date, and (b) any annual bonus earned by the Executive but not yet paid as of the Severance Date.

3.3 Severance Payments. Subject to Section 3.6, upon the Executive's Severance the Executive shall be entitled to receive an amount equal to the sum of (a) the Executive's Annual Base Salary, plus (b) the Executive's Annual Target Bonus Opportunity for the Company's (or its Affiliate's, if applicable) fiscal year in which the Severance Date occurs, payable in cash in installments over the 12-month period immediately following the Executive's Severance Date. The Severance Payments shall be paid according to the Company's normal payroll practices in effect prior to the Severance, with the first installment commencing on the next regularly-scheduled payroll date that is at least sixty-one (61) days following the Severance Date and such first installment shall include any amounts that would have been paid during the period from the Executive's Severance Date through the date of such first installment, absent the delay described herein.

3.4 Outplacement Services. Subject to Section 3.6, in addition to the benefits provided in Sections 3.3 and 3.5, the Executive shall be entitled to receive outplacement services of up to $10,000 for the period ending on the first anniversary of the Executive's Severance Date.

3.5 Welfare Benefits. Subject to Section 3.6 and upon the Executive incurring a Severance, the Executive shall also be entitled to receive the benefits described in Section 3.5(a) or (b) below, plus the benefits described in Section 3.5(c).

(a) The Company shall directly pay Executive's total COBRA premiums for eighteen (18) months of COBRA continuation coverage under the Company's health benefit plan (i.e., medical, dental and vision coverage). To the extent permitted by applicable law, Executive shall have the right to change Executive's coverage elections under the Company's health benefit plan during the COBRA continuation period and any such change in elections shall not reduce or eliminate the Company's obligation to pay applicable premiums.

(b) Notwithstanding Section 3.5(a), in the event that the direct COBRA payment arrangement described in Section 3.5(a) would result in adverse

tax consequences for the Executive under Code Section 105(h) (or similar law), the Company shall pay to the Executive upon the Executive's Severance an amount equal to one hundred and twenty five percent (125%) of the total premiums the Executive would be required to pay for eighteen (18) months of COBRA continuation coverage under the Company's health benefit plan, determined using the COBRA premium rate in effect for the level of coverage that the Executive has in place immediately prior to the Severance Date (the "COBRA Payment"). The Company shall pay the COBRA Payment in cash in a single lump sum on the date that is sixty-one (61) days following the Severance Date. In the event that the Company makes a payment pursuant to this Section 3.5(b), the Executive shall not be required to purchase COBRA continuation coverage in order to receive the COBRA Payment nor shall the Executive be required to apply the COBRA Payment to payment of applicable premiums for COBRA continuation coverage.

(c) In addition, during the COBRA continuation coverage period the Company shall permit the Executive (and his or her eligible dependents) to participate in any optional life insurance and optional personal accident plans of the Company for which senior executives of the Company are eligible, to the same extent and at the same premium rates as if the Executive had continued to be an employee of the Company during such period.

(d) The coverage period for purposes of COBRA continuation requirements of Section 4980B of the Code shall commence on the day immediately following the Severance Date.

3.6 Release and Restrictive Covenant Agreement. The Executive shall be eligible to receive the payments and other benefits under this Agreement (other than payments under Section 3.2) only if after the Severance Date (a) the Executive first executes the Release in favor of the Company and others attached hereto as Exhibit A and the Release has not been revoked by the Executive, by the sixtieth (60th) day following the Severance Date, and (b) the Executive provides the Company written attestation that the Confidentiality, Non-Competition, Non-Solicitation and Inventions Agreement attached hereto as Exhibit B (the "Restrictive Covenants Agreement") is in effect and enforceable. If the Executive does not execute and return the Release and attestation such that either or both agreements do not become effective (or, in the case of the Release, is revoked) within the 60-day period immediately following the Severance Date, the Executive shall not be entitled to any payments or benefits under this Agreement (other than payments under Section 3.2).

3.7 Forfeiture. If the Executive is found in a judgment no longer subject to review or appeal to have breached the obligations set forth in the Restrictive Covenants Agreement, then the Executive shall immediately forfeit any amounts payable or benefits to be received and shall promptly reimburse the Company any amounts actually paid to the Executive pursuant to this Agreement (other than payments made pursuant to Section 3.2).

3.8 No Duplication of Benefits. Except as otherwise noted herein, during the Term of this Agreement the compensation to be paid to the Executive hereunder will be in lieu of any similar severance or termination compensation (compensation based directly on the Executive's annual salary or annual salary and bonus) to which the Executive may be entitled under any other Company or Affiliate severance or termination agreement, plan, program, policy, practice or arrangement (collectively, "Severance Plans"). The Executive affirmatively waives any rights he may have to payments or benefits provided under the Severance Plans to the extent the Executive receives similar payments or benefits under this Agreement. The Executive's entitlement to any compensation or benefits of a type not provided in this Agreement will be determined in accordance with the Company's or its Affiliates' employee benefit plans and other applicable programs, policies and practices as in effect from time to time.

3.9 No Mitigation or Offset. In the event of any termination of the Executive's employment, the Executive shall not be required to seek other employment to mitigate damages, and any income earned by the Executive from other employment or self-employment shall not be offset against any obligations of the Company and its Affiliates to Executive under this Agreement.

SECTION 4. ***Golden Parachute Tax*****.** It is the intention of the Company and the Executive that the Executive receive the full benefits available under this Agreement and any other agreement, plan, program, policy or similar arrangement providing for compensation or benefits in the event of a Change in Control. If a Change of Control occurs and a determination is made by legislation, regulation, ruling directed to the Executive or the Company, or court decision that the aggregate amount of any payment made to the Executive hereunder, or pursuant to any plan, program, policy or similar arrangement of the Company (or any subsidiary or affiliate or successor thereto) in connection with, on account of, or as a result of, such Change in Control constitutes "excess parachute payments" as defined in Code Section 280G (as well as any successor or similar sections thereof), subject to the excise tax provisions of Code Section 4999 (as well as any successor or similar sections thereof), the Executive shall be entitled to receive from the Company, in addition to any other amounts payable hereunder, a lump sum payment equal to 100% of such excise tax, plus an amount equal to the federal and state income tax, FICA, and Medicare taxes (based upon Executive's projected marginal income tax rates) on such lump sum payment. The amounts under this Section 4 shall be paid to Executive as soon as may be practicable after such final determination is made and in all events shall be made no later than the end of the Executive's taxable year next following his taxable year in which he remitted the related taxes. The Executive and the Company shall mutually and reasonably determine whether or not such determination has occurred or whether any appeal to such determination should be made.

SECTION 5. ***Death During the Severance Period.*** If the Executive dies during the Severance Period, any unpaid amounts shall be paid to the Executive's estate within ten (10) days following the Executive's death. The Executive's right to outplacement services described in Section 3.4(b) and continued participation in the life insurance and accident plans described in Section 3.5 shall terminate as of the date of the Executive's death.

SECTION 6. ***Amendments; Waiver.*** This Agreement contains the entire agreement of the parties with respect to severance payments and benefits payable in connection with a Severance. No amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the parties hereto. No waiver by either party of any breach by the other party of any provision or condition of this Agreement shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time.

SECTION 7. ***General Provisions*****.**

7.1 Except as otherwise provided herein or by law, no right or interest of the Executive under this Agreement shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective; and no right or interest of the Executive under this Agreement shall be liable for, or subject to, any obligation or liability of such Executive. When a payment is due under this Agreement to the Executive and the Executive is unable to care for his or her affairs, payment may be made directly to his or her guardian or personal representative.

7.2 If the Company or any Affiliate thereof is obligated by law or by contract to pay severance pay, a termination indemnity, notice pay, or the like, or if the Company or any Affiliate thereof is obligated by law or by contract to provide advance notice of separation ("Notice Period"), then any severance pay under this Agreement shall be reduced by the amount of any such severance pay, termination indemnity, notice pay or the like, as applicable, and by the amount of any compensation received during any Notice Period. If the Executive is entitled to benefits under the Workers Adjustment Retraining Notification Act of 1988, or any similar state or local statute or ordinance (collectively the "WARN Act"), severance pay under this Agreement shall be reduced dollar-for-dollar by any benefits received pursuant to the WARN Act.

7.3 Neither this Agreement, nor any modification thereof, nor the creation of any fund, trust or account, nor the payment of any benefits shall be construed as giving the Executive, or any person whomsoever, the right to be retained in the service of the Company or any Affiliate thereof, and the Executive shall remain subject to discharge to the same extent as if this Agreement had never existed.

7.4 If any provision of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed and enforced as if such provisions had not been included.

7.5 This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties, including the Executive, present and future, and any successor to the Company.

7.6 The headings and captions herein are provided for reference and convenience only, shall not be considered part of this Agreement, and shall not be employed in the construction of this Agreement.

7.7 The Agreement shall not be required to be funded unless such funding is authorized by the Board. Regardless of whether the Agreement is funded, the Executive shall not have any right to, or interest in, any assets of any Company which may be applied by the Company to the payment of benefits or other rights under this Agreement. For purposes of clarity, nothing in this Section 7.7 shall be construed to relieve the Company or its Affiliates from their obligations to the Executive pursuant to this Agreement.

7.8 All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next-day delivery, with written verification of receipt. All communications shall be sent:

(i) To the Executive, at:

Last address in records of the Company

(ii) To the Company, at:

Treace Medical Concepts, Inc.
203 Fort Wade Rd., Suite 150
Ponte Vedra, FL 32081
Attention: General Counsel

7.9 This Agreement shall be governed, construed, interpreted and enforced in accordance with the substantive laws of the State of Florida, without reference to principles of conflicts or choice of law under which the law of any other jurisdiction would apply.

7.10 The Company may withhold from any payments due to the Executive hereunder such amounts as are required to be withheld under applicable federal, state and local tax laws.

SECTION 8. ***Entire Agreement.*** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements, if any, understandings and arrangements, oral or written, between the parties hereto with respect to severance protection in connection with a Change in Control or within the Executive's first 24 months of employment by the Company.

SECTION 9. ***Disputes.***

9.1 Except as provided in the Restrictive Covenants Agreement, any dispute or controversy arising under, out of, in connection with or in relation to this Agreement shall, at the election and upon written demand of any party to this Agreement, be finally determined and settled by arbitration in Jacksonville, Florida in accordance with the rules and procedures of the American Arbitration Association, and judgment upon the award may be entered in any court having jurisdiction thereof.

9.2 If, with respect to any alleged failure by the Company or its Affiliates to comply with any of the terms of this Agreement, the Executive hires legal counsel with respect to this Agreement or institutes any negotiations or institutes or responds to legal action to assert or defend the validity of, enforce his rights under, or recover damages for breach of this Agreement, and thereafter the Company or its Affiliates are found in a judgment no longer subject to review or appeal to have breached this Agreement in any material respect, then the Company or its Affiliates (but not both) shall reimburse the Executive for his actual expenses for attorneys' fees and disbursements within thirty (30) days following receipt of any invoice for such expenses.

SECTION 10. ***Section 409A of the Code*****.**

10.1 It is intended that this Agreement shall comply with or be exempt from the provisions of Section 409A of the Code and the Treasury Regulations relating thereto, so as not to subject the Executive to the payment of additional taxes and interest under Section 409A of the Code. This Agreement shall be interpreted, operated, and administered in a manner consistent with and in furtherance of this intent.

10.2 Any payment required under this Agreement that is payable in installment payments shall be deemed to be a separate payment for purposes of Section 409A of the Code and the Treasury Regulations thereunder.

10.3 Notwithstanding any provision to the contrary in this Agreement, no payment or distribution under this Agreement which constitutes an item of deferred compensation under Section 409A of the Code and becomes payable by reason of the Executive's termination of employment with the Company or its Affiliates or an Executive's resignation for Good Reason will be made unless the Executive's termination of employment or resignation (as applicable) constitutes a "separation from service" (as such term is defined in Treasury Regulations issued under Section 409A of the Code). In addition and solely to the extent required by Code Section 409A, no such payment or distribution will be made to the Executive prior to the earlier of (a) the expiration of the six (6)-month period measured from the date of the Executive's "separation from service" (as such term is defined in Treasury Regulations issued under Section 409A of the Code) or (b) the date of the Executive's death, if the Executive is deemed at the time of such separation from service to be a "specified employee" within the meaning of that term under Section 409A(a)(2) of the Code and to the extent such delayed commencement is otherwise required in order to avoid a prohibited distribution under Section 409A(a)(2) of the Code. All payments and benefits which had been delayed pursuant to the immediately preceding sentence shall be paid (without interest) to the Executive in a lump sum upon expiration of such six-month period (or if earlier upon the Executive's death).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

TREACE MEDICAL CONCEPTS, INC.

/s/ John T. Treace

John T. Treace
Chief Executive Officer

EXECUTIVE

/s/ Mark Hair

MARK HAIR

EXHIBIT A
RELEASE AGREEMENT
(To be signed after the Severance Date)

In return for payment of severance benefits pursuant to the Severance Agreement between Treace Medical Concepts, Inc., and me (the "Severance Agreement"), I hereby generally and completely release Treace Medical Concepts, Inc. ("Treace"), its parent and subsidiary entities (collectively the "Company"), and its or their directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, insurers, affiliates, and assigns (collectively "Released Parties"), from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to my signing this Release Agreement (the "Agreement"). This general release includes, but is not limited to: (1) all claims arising out of or in any way related to my employment with the Company or the termination of that employment; (2) all claims related to my compensation or benefits from the Company, including wages, salary, bonuses, commissions, vacation pay, expense reimbursements (to the extent permitted by applicable law), severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (3) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including without limitation claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including without limitation claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) ("ADEA"), the federal Worker Adjustment and Retraining Notification Act (as amended) and similar laws in other jurisdictions, the Employee Retirement Income Security Act of 1974 (as amended), the Family and Medical Leave Act of 1993, and any similar laws in other jurisdictions; provided, however, that this Release does not waive, release or otherwise discharge any claim or cause of action arising after the date I sign this Agreement.

This Agreement includes a release of claims of discrimination or retaliation on the basis of workers' compensation status, but does not include workers' compensation claims. Excluded from this Agreement are any claims which by law cannot be waived in a private agreement between employer and employee, including but not limited to the right to file a charge with or participate in an investigation conducted by the Equal Employment Opportunity Commission ("EEOC") or any state or local fair employment practices agency. I waive, however, any right to any monetary recovery or other relief should the EEOC or any other agency pursue a claim on my behalf.

I acknowledge and represent that I have not suffered any age or other discrimination, harassment, retaliation, or wrongful treatment by any Released Party. I also acknowledge and represent that I have not been denied any rights including, but not limited to, rights to a leave or reinstatement from a leave under the Family and Medical Leave Act of 1993, the Uniformed Services Employment and Reemployment Rights Act of 1994, or any similar law of any jurisdiction.

I agree that I am voluntarily executing this Agreement. I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA, as amended by the Older Workers Benefit Protection Act of 1990, and that the consideration given for this Release is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release specified in this paragraph does not apply to any rights or claims that may arise after the date I sign this Agreement; (b) I have been advised to consult with an attorney prior to signing this Agreement; (c) if a "Severance" (as defined in the Severance Agreement) involves an employment termination program, I have received a disclosure from the Company that includes a description of the class, unit or group of individuals covered by the program, the eligibility factors for such program, and any time limits applicable to such program and a list of job titles and ages of all employees selected for this group termination and ages of those individuals in the same job classification or organizational unit who were not selected for termination; (d) I have at least twenty-one (21) or forty-five (45) days, depending on the circumstances of my Severance, from the date that I receive this Release (although I may choose to sign it any time on or after my Severance Date (as defined in the Severance Agreement)) to consider the release; (e) I have seven (7) calendar days after I sign this Release to revoke it ("Revocation Period") by sending my revocation to the Human Resources Manager in writing at 203 Fort Wade Rd., Suite 150, Ponte Vedra, FL 32081; and (f) this Agreement will not be effective until I have signed it and returned it to the Company's Corporate Secretary and the Revocation Period has expired.

I UNDERSTAND THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

MARK HAIR	Date

EXHIBIT B
RESTRICTIVE COVENANTS AGREEMENT

See attached Employee Confidentiality, Nonsolicitation and Noncompete Agreement between Executive and the Company dated September 21, 2020.

CHANGE IN CONTROL
SEVERANCE AGREEMENT

This CHANGE IN CONTROL SEVERANCE AGREEMENT is dated as of October 5, 2020, by and between TREACE MEDICAL CONCEPTS, INC., a Delaware corporation (the "Company"), and Jaime A. Frias (the "Executive").

PURPOSE

In order to induce the Executive to remain in the employment of the Company and its Affiliates in the event of a potential Change in Control (as defined below), the Company desires to enter into this Change in Control Severance Agreement (the "Agreement") to provide the Executive with certain benefits if the Executive's employment is terminated in connection with or following the occurrence of a Change in Control.

NOW, THEREFORE, in consideration of the respective agreements of the parties contained herein, it is agreed as follows:

SECTION 1. ***Definitions***

For purposes of this Agreement, the following terms have the meanings set forth below:

"Affiliate" means, with respect to any individual or entity, any other individual or entity who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such individual or entity.

"Annual Base Salary" means the Executive's annual base salary in effect immediately before his or her Severance.

"Annual Target Bonus Opportunity" means the amount of the annual cash incentive payable to an Executive under a Company or Affiliate annual incentive plan with respect to a given fiscal year of the Company or Affiliate, as applicable, assuming that the target level of performance under the plan was achieved.

"Board" means the Board of Directors of the Company.

"Cause" shall mean:

(a) the Executive's willful and continued failure to attempt in good faith (other than as a result of incapacity due to mental or physical impairment) to substantially perform the duties of his or her position, and such failure is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(b) the Executive's failure to attempt in good faith to carry out, or comply with, in any material respect any lawful and reasonable directive of the Board or the Chief Executive Officer consistent with the duties of his or her position, which is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(c) a material breach by the Executive of the Company's code of ethics, which is not remedied within 30 days after receipt of written notice from the Board or the Chief Executive Officer specifying such failure;

(d) the Executive's conviction, plea of no contest or plea of *nolo contendere*, or imposition of unadjudicated probation for any felony (other than a traffic violation or arising purely as a result of the Executive's position with the Company or an Affiliate and not in connection with any act or omission of the Executive);

(e) the Executive's knowing unlawful use (including being under the influence) or possession of illegal drugs; or

(f) the Executive's commission of a material bad faith act of fraud, embezzlement, misappropriation, willful misconduct, gross negligence, or breach of fiduciary duty, in each case against the Company or any Affiliate.

For the purposes of this definition, no act (or omission) that is (i) taken in good faith and (ii) not adverse to the best interests of the Company or its Affiliates shall be considered to be willful.

"Change in Control" shall have the same meaning as assigned to that term in the Company's 2014 Stock Plan (or any successor to or replacement of such plan).

"Code" means the Internal Revenue Code of 1986, as amended.

"Disability" means a disability within the meaning of Code section 409A(a)(2)(C) and U.S. Treasury Regulations section 1.409A-3(i)(4) (or any successor provision).

"Effective Date" shall mean the date first set forth above.

"Good Reason" means the occurrence of any of the following events, unless the Executive otherwise consents in writing to such event:

(a) a material reduction in the Executive's Annual Base Salary (other than a reduction of less than ten percent (10%) that is applicable to all employees generally);

(b) a material reduction in the Executive's Annual Target Bonus Opportunity as compared to his or her Annual Target Bonus Opportunity for the fiscal year of the Company in which the Change in Control occurred;

(c) requiring the Executive to relocate his or her principal place of employment to a location more than fifty (50) miles from the Executive's current principal place of employment; or

(d) the failure or refusal by a successor or acquiring company, upon the consummation of a Change in Control, to (i) assume the obligations of the Company under this Agreement or (ii) assume obligations to Executive that are substantially equivalent to or more favorable than the obligations under this Agreement.

The Executive shall provide the Company with a written notice of resignation within ninety (90) days following the occurrence of the event constituting Good Reason and the Company (or its Affiliate, if applicable) shall have a period of thirty (30) days following its receipt of such notice in which to cure such event without such event constituting Good Reason. If the Company (or its Affiliate, if applicable) does not cure the condition or conditions by the end of such thirty (30) day period, the Executive may voluntarily terminate employment within thirty (30) days after the last day of the thirty (30) day cure period. The Executive's voluntary termination of employment other than in accordance with the requirements of this definition shall not constitute termination for Good Reason.

"Release" means a general release of claims against the Company and the other persons specified therein in the form attached hereto as Exhibit A, or in such other form as is required to comply with applicable law.

"Severance" means (a) the involuntary termination of the Executive's employment by the Company or any Affiliate thereof, other than for Cause, death or Disability or (b) a termination of the Executive's employment with the Company and its Affiliates by the Executive for Good Reason, in each case, in connection with a Change in Control or within an eighteen (18) month period following the occurrence of a Change in Control.

"Severance Date" means the date on which the Executive incurs a Severance.

"Severance Period" means the period following the Executive's Severance pursuant to which the Company owes payments and/or benefits to the Executive pursuant to this Agreement.

"Treasury Regulations" means the final, temporary or proposed regulations issued by the Treasury Department and/or Internal Revenue Service as modified in Title 26 of The United States Code of Federal Regulations. Any references made in this Agreement to specific Treasury Regulations shall also refer to any successor or replacement regulations thereto.

SECTION 2. ***Term of Agreement.*** The term of this Agreement (the "Term") will commence on the Effective Date, and will continue until (a) in the event the Executive's employment is terminated for any reason other than the Executive's Severance, the date of such termination of employment, or (b) in the event the Executive incurs a Severance, the date on which the Company has fulfilled all obligations owed to the Executive pursuant to this Agreement.

SECTION 3. ***Severance Benefits***

3.1 Generally. Subject to Sections 3.6, 5 and 7.2 of this Agreement, the Executive shall be entitled to the severance payments and benefits described below.

3.2 Payment of Accrued Obligations. The Company shall pay to the Executive upon the Executive's Severance a lump sum payment in cash, paid in accordance with applicable law, as soon as practicable but no later than ten (10) days after the Severance Date, equal to the sum of (a) the Executive's accrued annual base salary and any accrued vacation pay through the Severance Date, and (b) any annual bonus earned by the Executive but not yet paid as of the Severance Date.

3.3 Severance Payments. Subject to Section 3.6, upon the Executive's Severance the Executive shall be entitled to receive an amount equal to the sum of (a) the Executive's Annual Base Salary, plus (b) the Executive's Annual Target Bonus Opportunity for the Company's (or its Affiliate's, if applicable) fiscal year in which the Severance Date occurs, payable in cash in installments over the 12-month period immediately following the Executive's Severance Date. The Severance Payments shall be paid according to the Company's normal payroll practices in effect prior to the Severance, with the first installment commencing on the next regularly-scheduled payroll date that is at least sixty-one (61) days following the Severance Date and such first installment shall include any amounts that would have been paid during the period from the Executive's Severance Date through the date of such first installment, absent the delay described herein.

3.4 Outplacement Services. Subject to Section 3.6, in addition to the benefits provided in Sections 3.3 and 3.5, the Executive shall be entitled to receive outplacement services of up to $10,000 for the period ending on the first anniversary of the Executive's Severance Date.

3.5 Welfare Benefits. Subject to Section 3.6 and upon the Executive incurring a Severance, the Executive shall also be entitled to receive the benefits described in Section 3.5(a) or (b) below, plus the benefits described in Section 3.5(c).

(a) The Company shall directly pay Executive's total COBRA premiums for eighteen (18) months of COBRA continuation coverage under the Company's health benefit plan (i.e., medical, dental and vision coverage). To the extent permitted by applicable law, Executive shall have the right to change Executive's coverage elections under the Company's health benefit plan during the COBRA continuation period and any such change in elections shall not reduce or eliminate the Company's obligation to pay applicable premiums.

(b) Notwithstanding Section 3.5(a), in the event that the direct COBRA payment arrangement described in Section 3.5(a) would result in adverse

tax consequences for the Executive under Code Section 105(h) (or similar law), the Company shall pay to the Executive upon the Executive's Severance an amount equal to one hundred and twenty five percent (125%) of the total premiums the Executive would be required to pay for eighteen (18) months of COBRA continuation coverage under the Company's health benefit plan, determined using the COBRA premium rate in effect for the level of coverage that the Executive has in place immediately prior to the Severance Date (the "COBRA Payment"). The Company shall pay the COBRA Payment in cash in a single lump sum on the date that is sixty-one (61) days following the Severance Date. In the event that the Company makes a payment pursuant to this Section 3.5(b), the Executive shall not be required to purchase COBRA continuation coverage in order to receive the COBRA Payment nor shall the Executive be required to apply the COBRA Payment to payment of applicable premiums for COBRA continuation coverage.

(c) In addition, during the COBRA continuation coverage period the Company shall permit the Executive (and his or her eligible dependents) to participate in any optional life insurance and optional personal accident plans of the Company for which senior executives of the Company are eligible, to the same extent and at the same premium rates as if the Executive had continued to be an employee of the Company during such period.

(d) The coverage period for purposes of COBRA continuation requirements of Section 4980B of the Code shall commence on the day immediately following the Severance Date.

3.6 Release and Restrictive Covenant Agreement. The Executive shall be eligible to receive the payments and other benefits under this Agreement (other than payments under Section 3.2) only if after the Severance Date (a) the Executive first executes the Release in favor of the Company and others attached hereto as Exhibit A and the Release has not been revoked by the Executive, by the sixtieth (60th) day following the Severance Date, and (b) the Executive provides the Company written attestation that the Confidentiality, Non-Competition, Non-Solicitation and Inventions Agreement attached hereto as Exhibit B (the "Restrictive Covenants Agreement") is in effect and enforceable. If the Executive does not execute and return the Release and attestation such that either or both agreements do not become effective (or, in the case of the Release, is revoked) within the 60-day period immediately following the Severance Date, the Executive shall not be entitled to any payments or benefits under this Agreement (other than payments under Section 3.2).

3.7 Forfeiture. If the Executive is found in a judgment no longer subject to review or appeal to have breached the obligations set forth in the Restrictive Covenants Agreement, then the Executive shall immediately forfeit any amounts payable or benefits to be received and shall promptly reimburse the Company any amounts actually paid to the Executive pursuant to this Agreement (other than payments made pursuant to Section 3.2).

3.8 No Duplication of Benefits. Except as otherwise noted herein, during the Term of this Agreement the compensation to be paid to the Executive hereunder will be in lieu of any similar severance or termination compensation (compensation based directly on the Executive's annual salary or annual salary and bonus) to which the Executive may be entitled under any other Company or Affiliate severance or termination agreement, plan, program, policy, practice or arrangement (collectively, "Severance Plans"). The Executive affirmatively waives any rights he may have to payments or benefits provided under the Severance Plans to the extent the Executive receives similar payments or benefits under this Agreement. The Executive's entitlement to any compensation or benefits of a type not provided in this Agreement will be determined in accordance with the Company's or its Affiliates' employee benefit plans and other applicable programs, policies and practices as in effect from time to time.

3.9 No Mitigation or Offset. In the event of any termination of the Executive's employment, the Executive shall not be required to seek other employment to mitigate damages, and any income earned by the Executive from other employment or self-employment shall not be offset against any obligations of the Company and its Affiliates to Executive under this Agreement.

SECTION 4. ***Golden Parachute Tax*****.** It is the intention of the Company and the Executive that the Executive receive the full benefits available under this Agreement and any other agreement, plan, program, policy or similar arrangement providing for compensation or benefits in the event of a Change in Control. If a Change of Control occurs and a determination is made by legislation, regulation, ruling directed to the Executive or the Company, or court decision that the aggregate amount of any payment made to the Executive hereunder, or pursuant to any plan, program, policy or similar arrangement of the Company (or any subsidiary or affiliate or successor thereto) in connection with, on account of, or as a result of, such Change in Control constitutes "excess parachute payments" as defined in Code Section 280G (as well as any successor or similar sections thereof), subject to the excise tax provisions of Code Section 4999 (as well as any successor or similar sections thereof), the Executive shall be entitled to receive from the Company, in addition to any other amounts payable hereunder, a lump sum payment equal to 100% of such excise tax, plus an amount equal to the federal and state income tax, FICA, and Medicare taxes (based upon Executive's projected marginal income tax rates) on such lump sum payment. The amounts under this Section 4 shall be paid to Executive as soon as may be practicable after such final determination is made and in all events shall be made no later than the end of the Executive's taxable year next following his taxable year in which he remitted the related taxes. The Executive and the Company shall mutually and reasonably determine whether or not such determination has occurred or whether any appeal to such determination should be made.

SECTION 5. ***Death During the Severance Period.*** If the Executive dies during the Severance Period, any unpaid amounts shall be paid to the Executive's estate within ten (10) days following the Executive's death. The Executive's right to outplacement services described in Section 3.4(b) and continued participation in the life insurance and accident plans described in Section 3.5 shall terminate as of the date of the Executive's death.

SECTION 6. ***Amendments; Waiver.*** This Agreement contains the entire agreement of the parties with respect to severance payments and benefits payable in connection with a Severance. No amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the parties hereto. No waiver by either party of any breach by the other party of any provision or condition of this Agreement shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time.

SECTION 7. ***General Provisions*****.**

7.1 Except as otherwise provided herein or by law, no right or interest of the Executive under this Agreement shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective; and no right or interest of the Executive under this Agreement shall be liable for, or subject to, any obligation or liability of such Executive. When a payment is due under this Agreement to the Executive and the Executive is unable to care for his or her affairs, payment may be made directly to his or her guardian or personal representative.

7.2 If the Company or any Affiliate thereof is obligated by law or by contract to pay severance pay, a termination indemnity, notice pay, or the like, or if the Company or any Affiliate thereof is obligated by law or by contract to provide advance notice of separation ("Notice Period"), then any severance pay under this Agreement shall be reduced by the amount of any such severance pay, termination indemnity, notice pay or the like, as applicable, and by the amount of any compensation received during any Notice Period. If the Executive is entitled to benefits under the Workers Adjustment Retraining Notification Act of 1988, or any similar state or local statute or ordinance (collectively the "WARN Act"), severance pay under this Agreement shall be reduced dollar-for-dollar by any benefits received pursuant to the WARN Act.

7.3 Neither this Agreement, nor any modification thereof, nor the creation of any fund, trust or account, nor the payment of any benefits shall be construed as giving the Executive, or any person whomsoever, the right to be retained in the service of the Company or any Affiliate thereof, and the Executive shall remain subject to discharge to the same extent as if this Agreement had never existed.

7.4 If any provision of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed and enforced as if such provisions had not been included.

7.5 This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties, including the Executive, present and future, and any successor to the Company.

7.6 The headings and captions herein are provided for reference and convenience only, shall not be considered part of this Agreement, and shall not be employed in the construction of this Agreement.

7.7 The Agreement shall not be required to be funded unless such funding is authorized by the Board. Regardless of whether the Agreement is funded, the Executive shall not have any right to, or interest in, any assets of any Company which may be applied by the Company to the payment of benefits or other rights under this Agreement. For purposes of clarity, nothing in this Section 7.7 shall be construed to relieve the Company or its Affiliates from their obligations to the Executive pursuant to this Agreement.

7.8 All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next-day delivery, with written verification of receipt. All communications shall be sent:

(i) To the Executive, at:

Last address in records of the Company

(ii) To the Company, at:

Treace Medical Concepts, Inc.
203 Fort Wade Rd., Suite 150
Ponte Vedra, FL 32081
Attention: General Counsel

7.9 This Agreement shall be governed, construed, interpreted and enforced in accordance with the substantive laws of the State of Florida, without reference to principles of conflicts or choice of law under which the law of any other jurisdiction would apply.

7.10 The Company may withhold from any payments due to the Executive hereunder such amounts as are required to be withheld under applicable federal, state and local tax laws.

SECTION 8. ***Entire Agreement.*** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements, if any, understandings and arrangements, oral or written, between the parties hereto with respect to severance protection in connection with a Change in Control.

SECTION 9. ***Disputes.***

9.1 Except as provided in the Restrictive Covenants Agreement, any dispute or controversy arising under, out of, in connection with or in relation to this Agreement shall, at the election and upon written demand of any party to this Agreement, be finally determined and settled by arbitration in Jacksonville, Florida in accordance with the rules and procedures of the American Arbitration Association, and judgment upon the award may be entered in any court having jurisdiction thereof.

9.2 If, with respect to any alleged failure by the Company or its Affiliates to comply with any of the terms of this Agreement, the Executive hires legal counsel with respect to this Agreement or institutes any negotiations or institutes or responds to legal action to assert or defend the validity of, enforce his rights under, or recover damages for breach of this Agreement, and thereafter the Company or its Affiliates are found in a judgment no longer subject to review or appeal to have breached this Agreement in any material respect, then the Company or its Affiliates (but not both) shall reimburse the Executive for his actual expenses for attorneys' fees and disbursements within thirty (30) days following receipt of any invoice for such expenses.

SECTION 10. ***Section 409A of the Code*****.**

10.1 It is intended that this Agreement shall comply with or be exempt from the provisions of Section 409A of the Code and the Treasury Regulations relating thereto, so as not to subject the Executive to the payment of additional taxes and interest under Section 409A of the Code. This Agreement shall be interpreted, operated, and administered in a manner consistent with and in furtherance of this intent.

10.2 Any payment required under this Agreement that is payable in installment payments shall be deemed to be a separate payment for purposes of Section 409A of the Code and the Treasury Regulations thereunder.

10.3 Notwithstanding any provision to the contrary in this Agreement, no payment or distribution under this Agreement which constitutes an item of deferred compensation under Section 409A of the Code and becomes payable by reason of the Executive's termination of employment with the Company or its Affiliates or an Executive's resignation for Good Reason will be made unless the Executive's termination of employment or resignation (as applicable) constitutes a "separation from service" (as such term is defined in Treasury Regulations issued under Section 409A of the Code). In addition and solely to the extent required by Code Section 409A, no such payment or distribution will be made to the Executive prior to the earlier of (a) the expiration of the six (6)-month period measured from the date of the Executive's "separation from service" (as such term is defined in Treasury Regulations issued under Section 409A of the Code) or (b) the date of the Executive's death, if the Executive is deemed at the time of such separation from service to be a "specified employee" within the meaning of that term under Section 409A(a)(2) of the Code and to the extent such delayed commencement is otherwise required in order to avoid a prohibited distribution under Section 409A(a)(2) of the Code. All payments and benefits which had been delayed pursuant to the immediately preceding sentence shall be paid (without interest) to the Executive in a lump sum upon expiration of such six-month period (or if earlier upon the Executive's death).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

TREACE MEDICAL CONCEPTS, INC.

/s/ John T. Treace

John T. Treace
Chief Executive Officer

EXECUTIVE

/s/ Jaime A. Frias

Jaime A. Frias

EXHIBIT A
RELEASE AGREEMENT
(To be signed after the Severance Date)

In return for payment of severance benefits pursuant to the Change in Control Severance Agreement between Treace Medical Concepts, Inc., and me (the "CIC Severance Agreement"), I hereby generally and completely release Treace Medical Concepts, Inc. ("Treace"), its parent and subsidiary entities (collectively the "Company"), and its or their directors, officers, employees, shareholders, partners, agents, attorneys, predecessors, successors, insurers, affiliates, and assigns (collectively "Released Parties"), from any and all claims, liabilities and obligations, both known and unknown, that arise out of or are in any way related to events, acts, conduct, or omissions occurring prior to my signing this Release Agreement (the "Agreement"). This general release includes, but is not limited to: (1) all claims arising out of or in any way related to my employment with the Company or the termination of that employment; (2) all claims related to my compensation or benefits from the Company, including wages, salary, bonuses, commissions, vacation pay, expense reimbursements (to the extent permitted by applicable law), severance pay, fringe benefits, stock, stock options, or any other ownership interests in the Company; (3) all claims for breach of contract, wrongful termination, and breach of the implied covenant of good faith and fair dealing; (4) all tort claims, including without limitation claims for fraud, defamation, emotional distress, and discharge in violation of public policy; and (5) all federal, state, and local statutory claims, including without limitation claims for discrimination, harassment, retaliation, attorneys' fees, or other claims arising under the federal Civil Rights Act of 1964 (as amended), the federal Americans with Disabilities Act of 1990, the federal Age Discrimination in Employment Act of 1967 (as amended) ("ADEA"), the federal Worker Adjustment and Retraining Notification Act (as amended) and similar laws in other jurisdictions, the Employee Retirement Income Security Act of 1974 (as amended), the Family and Medical Leave Act of 1993, and any similar laws in other jurisdictions; provided, however, that this Release does not waive, release or otherwise discharge any claim or cause of action arising after the date I sign this Agreement.

This Agreement includes a release of claims of discrimination or retaliation on the basis of workers' compensation status, but does not include workers' compensation claims. Excluded from this Agreement are any claims which by law cannot be waived in a private agreement between employer and employee, including but not limited to the right to file a charge with or participate in an investigation conducted by the Equal Employment Opportunity Commission ("EEOC") or any state or local fair employment practices agency. I waive, however, any right to any monetary recovery or other relief should the EEOC or any other agency pursue a claim on my behalf.

I acknowledge and represent that I have not suffered any age or other discrimination, harassment, retaliation, or wrongful treatment by any Released Party. I also acknowledge and represent that I have not been denied any rights including, but not limited to, rights to a leave or reinstatement from a leave under the Family and Medical Leave Act of 1993, the Uniformed Services Employment and Reemployment Rights Act of 1994, or any similar law of any jurisdiction.

I agree that I am voluntarily executing this Agreement. I acknowledge that I am knowingly and voluntarily waiving and releasing any rights I may have under the ADEA, as amended by the Older Workers Benefit Protection Act of 1990, and that the consideration given for this Release is in addition to anything of value to which I was already entitled. I further acknowledge that I have been advised by this writing, as required by the ADEA, that: (a) my waiver and release specified in this paragraph does not apply to any rights or claims that may arise after the date I sign this Agreement; (b) I have been advised to consult with an attorney prior to signing this Agreement; (c) if a "Severance" (as defined in the CIC Severance Agreement) involves an employment termination program, I have received a disclosure from the Company that includes a description of the class, unit or group of individuals covered by the program, the eligibility factors for such program, and any time limits applicable to such program and a list of job titles and ages of all employees selected for this group termination and ages of those individuals in the same job classification or organizational unit who were not selected for termination; (d) I have at least twenty-one (21) or forty-five (45) days, depending on the circumstances of my Severance, from the date that I receive this Release (although I may choose to sign it any time on or after my Severance Date (as defined in the CIC Severance Agreement)) to consider the release; (e) I have seven (7) calendar days after I sign this Release to revoke it ("Revocation Period") by sending my revocation to the Human Resources Manager in writing at 203 Fort Wade Rd., Suite 150, Ponte Vedra, FL 32081; and (f) this Agreement will not be effective until I have signed it and returned it to the Company's Corporate Secretary and the Revocation Period has expired.

I UNDERSTAND THAT THIS AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

JAIME A. FRIAS	Date

EXHIBIT B
RESTRICTIVE COVENANTS AGREEMENT

See attached Employee Confidentiality, Nonsolicitation and Noncompete Agreement between Executive and the Company dated July 17, 2017.

Exhibit 10.8

SEPARATION AGREEMENT AND GENERAL RELEASE

This SEPARATION AGREEMENT AND GENERAL RELEASE (collectively with its Exhibits, this "Agreement") is made between ROBERT P. JORDHEIM ("Employee") and TREACE MEDICAL CONCEPTS, INC., and its affiliates, subsidiaries, parent, predecessors, successors and assigns (collectively and individually, "Company").

A. REASONS FOR AGREEMENT

1. Employee is being separated from employment with the Company as of July 31, 2020 (the "Separation Date").

2. For the consideration from Employee specified below, Company has agreed to provide Employee with certain benefits which Employee would not otherwise be entitled to receive. Employee acknowledges and agrees that this Agreement is supported by good and valuable consideration.

B. AGREEMENT

For and in consideration of the mutual promises and commitments specified herein, the parties agree as follows:

1. Special Severance Package. In consideration of and subject to Employee's execution and compliance with this Agreement, including its Exhibits, the Company agrees to provide Employee a "Special Severance Package," consisting of (1) a payment of $279,822.56 (which is equivalent to 12 months of base salary and 2020 bonus at target pro-rated for Employee's 7 months of 2020 employment) and (2) COBRA premiums for twelve (12) months of COBRA continuation coverage under the Company's health benefit plan per Employee's elections in effect at the Separation Date, paid by Company directly to the insurer. All amounts payable under this Agreement will be subject to applicable withholdings under applicable federal, state and local tax laws. The payments are subject to being taxed at the supplemental tax rate. Company agrees to pay the sum set forth in clause (1) above in a lump sum promptly after expiration of the seven-day revocation period referenced in Section 4.

2. Accrued Benefits / No Other Payments. Signing this Agreement will not affect the following (the "Accrued Benefits"): (a) the payment of Employee's base pay for the period of time since Company's last payroll date through the Separation Date along with any earned but unused vacation and/or paid time off days; (b) any vested rights Employee may have under any Company-sponsored retirement plan, if any; (c) Employee's ability to exercise any post-separation conversion rights provided under Company's insurance and benefits plans, if any, subject to the provisions of Section 8 below; or (d) any general rights to continue certain health and welfare benefits in accordance with COBRA, if applicable, and in each case, subject to applicable withholdings. Employee acknowledges and agrees that Employee has been fully and properly paid by Company for Employee's work to date, and Employee affirms that Employee has no work-related injuries or occupational diseases. Employee also acknowledges and agrees that, except for the Accrued Benefits and the Special Severance Package, Employee is not entitled to and waives the right to seek any additional payments, benefits or consideration from Company or the parties released below. The Special Severance Package shall be in complete satisfaction of any rights or claims related to Employee's employment with or separation from Company.

3. General Release. In consideration for the Special Severance Package, and except as prohibited by law, Employee agrees, for Employee and Employee's heirs, representatives, successors and assigns, that Employee has been finally and permanently separated from employment with Company as of the Separation Date, and that Employee waives, releases and forever discharges the Company, its attorneys, directors, officers, employees, benefit plans, insurers, successors and agents (the "Releasees"), from any and all claims, known or unknown, that Employee has or may have relating to or arising out of any facts, omissions, contracts, events or actions existing or occurring on or before the Release Date (as defined below) , including but not limited to claims related to Employee's employment with the Company or the termination thereof, any claims of wrongful discharge, breach of express or implied contract, breach of the implied covenant of good faith and fair dealing, fraud, misrepresentation, defamation, liability in tort (including without limitation claims for emotional distress), discrimination, harassment, retaliation, violation of public policy, negligence, personal injury, invasion of privacy, or promissory estoppel, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining Notification Act, the Fair Credit Reporting Act, the Occupational Safety and Health Act, the Florida Civil Rights Act, and any other whistleblower statutes, or any other federal, state or local law including such laws relating to employment, wages, employee benefits or the termination of employment and any claims related to misuse of devices, software or proprietary information, breach of confidentiality obligations, improper controls, product design or manufacturing issues, improper use or sale of unapproved products, or infringement of intellectual property rights. The claims released by Employee in this Agreement, including but not limited to those released in this Section 3 and Section 4, are collectively referred to as the "Released Claims". Employee further represents that Employee is not aware of any facts giving rise to claims against the Company under the Fair Labor Standards Act, any analogous state law, or any other law. For the avoidance of doubt, Employee is not waiving the right to receive the Accrued Benefits (except as expressly set forth in Section 8 below) and any rights to indemnification under the Company's Certificate of Incorporation or Bylaws or his Indemnification Agreement with the Company dated November 13, 2017. This release excludes any claims or rights that cannot be waived or released by law. The "Release Date" means the last to occur of the following: (i) the Separation Date or (ii) the date that Employee signs this Agreement.

4. Release of Age Discrimination Claims; Periods for Review and Reconsideration. Employee understands and agrees that this document includes a release of claims arising under the Age Discrimination in Employment Act (ADEA), and does not waive rights or claims that may arise after the Release Date. Employee understands Employee has been given a period of at least twenty-one (21) days to review and consider this Agreement and Employee may use as much or all of this 21-day period as Employee wishes before signing, and that Employee has done so. Employee understands that Employee is hereby advised to consult with an attorney prior to executing the Agreement. By signature below, Employee warrants that Employee has had the opportunity to do so and to be fully and fairly advised by that legal counsel as to the terms of the Agreement. Employee understands that Employee has seven (7) days after the Release Date to revoke it by notice in writing delivered to the Company. This Agreement shall be binding, effective, and enforceable upon the expiration of this seven-day revocation period without such revocation being received, but not before such time. Employee understands and

agrees that Special Severance Package contingent upon the execution of this Agreement will not be made prior to the expiration of this seven-day revocation period. Payment of Special Severance Package is conditioned on the execution of this Agreement, and will be made within fourteen (14) days following (i) the expiration of the seven-day revocation period, or (ii) the Separation Date, whichever is later.

5. Release of Unknown Claims. Employee acknowledges that the Released Claims include claims that Employee does not know or suspect to exist in his favor on the Release Date. Employee, for himself and his heirs, representatives, successors and assigns, hereby expressly waives any and all provisions, rights and benefits conferred under any law of the United States or any state or territory of the United States, or principle of common law, that protects Employee from releasing any claims that Employee does not know or suspect to exist in his favor on the Release Date, which if known by Employee might have materially affected Employee's determination to enter into this Agreement or to not revoke this Agreement within the permitted period. The Released Claims shall be deemed to be fully, finally and forever settled and released as of the Release Date, without regard to the subsequent discovery or existence of facts relating to the Released Claims in addition to or different from those that Employee believed to be true on the Release Date.

6. Additional Representations. By executing this Agreement, (a) Employee hereby represents that (i) he has complied with all known Company policies and procedures during the period of his employment and (ii) he has not filed or permitted to be filed with any court, governmental or administrative agency, or arbitration tribunal, any Released Claim; (b) Employee hereby waives any right that he may have ever had or may now have to commence a Released Claim against the Releasees; (c) Employee hereby represents that he has not transferred or assigned to any other person any of the Released Claims; (d) he further covenants and agrees not to bring or knowingly participate in any Released Claim or to encourage or permit any of the Released Claims to be filed by any other person or entity on his behalf; and (e) Employee agrees that this waiver and release may be plead as a full and complete defense to any subsequent action or other proceeding arising out of, relating to, or having anything to do with any and all of the Released Claims, counterclaims, defenses or other matters capable of being alleged, that are specifically released and discharged by this Agreement, and this Agreement may be used to abate any such action or proceeding.

7. Affirmation of Important Obligations under Existing Agreements. Employee acknowledges having executed that certain Employee Confidentiality, Non-Competition, Non-Solicitation and Inventions Agreement effective November 13, 2017 (the "Confidentiality and Non-Competition Agreement"), which is attached as **Exhibit 1** to this Agreement. Employee affirms that Employee has not divulged any proprietary or confidential information of Company and will continue to maintain the confidentiality of such information consistent with Company's policies and Employee's agreement(s) with Company and/or common law. Employee affirms that he has complied and shall continue to comply with Employee's current and continuing obligations under the Confidentiality and Non-Competition Agreement. If Employee breaches the obligations set forth in this Agreement or the Confidentiality and Non-Competition Agreement, then Employee shall immediately forfeit any amounts payable or benefits to be received and shall promptly reimburse the Company any amounts actually paid to Employee pursuant to this Agreement (other than the Accrued Benefits).

8. Agreement on Exercise by Employee of Stock Options. Employee acknowledges that he and the Company are party to several stock option agreements granting Employee the right to purchase shares of the Company's capital stock upon terms and conditions specified in such agreements. The Stock Option Agreements consist of those listed in **Exhibit 2** attached to this Agreement and made an integral part hereof and are referred to collectively as the "Stock Option Agreements." In consideration of the covenants and agreements set forth in this Agreement, Employee has agreed that he may exercise his rights to purchase shares of the capital stock of the Company only under the Stock Option Agreement dated as of December 19, 2017 for the aggregate purchase of 285,714 shares at an exercise price of $1.40 per share (the "2017 Option Agreement"), and only with respect to up to 214,286 of such shares (the "Purchasable Shares"). Employee agrees and covenants that he shall not exercise his right to purchase any shares of the Company's capital stock under any Stock Option Agreement other than the Purchasable Shares, and all Stock Option Agreements and all options and other rights hereunder (other than the 2017 Option Agreement with respect to Purchasable Shares) shall be forfeited and shall have no further effect. Employee will continue to comply with all provisions of the 2017 Option Agreement as provided therein, including but not limited to notifying the Company of any disqualifying disposition of any shares acquired pursuant to any incentive stock options. The Company makes no representations or warranties with respect to any options, Stock Option Agreements, stock option plan or shares acquired upon the exercise of options or otherwise, including but not limited to their tax treatment, nor will the Company indemnify, defend or hold harmless any individual with respect to the tax consequences of any options, shares acquired upon exercise or other aspects thereof.

9. Agreement Confidentiality. Employee agrees that the terms of this Agreement and the Special Severance Package are confidential, and agrees not to disclose the facts, terms or amount thereof to any person other than Employee's attorney, income tax preparer or similar professional, or to Employee's spouse and immediate family. To the extent that Employee discloses this information as allowed by the previous sentence, Employee agrees to instruct such professional, spouse or immediate family member that this information is to be kept confidential.

10. Confidential Information. In addition to complying with his obligations under the Confidentiality and Non-Competition Agreement, Employee agrees that Employee will not divulge or give anyone any confidential information obtained by Employee during Employee's employment concerning the Company's business or affairs, including without limitation information relating to (a) the Company's policies, practices, human resources matters, or other confidential or proprietary information or trade secrets, (b) the Company's development, design, manufacturing, use, promotion or sale of medical devices, prototypes, or other products or services, in any stage of development, (c) information, documentation, licenses, software or intellectual property accessible to the Company, (d) training materials and processes, compliance programs, incident reports, and patient records, and (e) the Company's relationships with actual or potential customers, consulting or other physicians, sales agents or representatives, or the needs, requirements or confidential or privileged information belonging to such customers, except as required by a lawfully issued subpoena and as consistent with applicable legal ethics rules. Employee also agrees not to disclose any information concerning any legal matters in which the Company is involved, except as required by a lawfully issued subpoena and as consistent with applicable legal ethics rules. If Employee receives a subpoena for information or is subject to another legal compulsion requiring disclosure, then Employee will, to the extent permitted by law and practicable under the circumstance, notify the Company before disclosing its confidential information to permit the Company to seek protection from disclosure.

11. Non-Disparagement and Employment Reference. Employee agrees not to disparage or discuss the Company or any of its services, products, agents or employees in a derogatory manner, whether in writing, verbally, or on any online forum. Upon request directed to the Company's HR Manager, the Company agrees to provide a neutral employment reference to Employee, prospective employers, or other authorized third parties. In response to such request, the neutral reference will contain only Employee's dates of employment, salary information, and title/position(s) held with the Company.

12. Communications with Government Agencies. Nothing in this Agreement precludes Employee from communicating, filing a charge, including a challenge to the validity of this Agreement, or participating in any investigation or proceeding, with the Equal Employment Opportunity Commission ("EEOC") or comparable state or municipal fair employment agency or the National Labor Relations Board ("NLRB"), the Occupational Safety and Health Administration or the U.S. Securities and Exchange Commission. However, Employee waives the right to receive any damages or other remedies in connection with any such matter to the fullest extent permitted by law.

13. No Admission. It is understood and agreed that the Company is not admitting any wrongdoing by entering into this Agreement and that nothing in this Agreement shall be construed as an admission of any wrongdoing by the Company. The Company has entered into this Agreement solely for maintaining an amicable and cooperative relationship between Employee and the Company.

14. No Re-Employment. Employee agrees not to seek re-employment with the Company, and agrees that the Company shall have no obligation to rehire Employee under any circumstances.

15. Cooperation. Employee agrees to cooperate with the Company in the transition of matters in which Employee was involved which are ongoing and to provide, upon request, needed information or assistance following the Separation Date as reasonably requested by the Company and, in connection with providing transition support, Employee will be considered engaged by the Company to render financial advisory services if and as requested by the Company, and will retain Service Provider status under the 2017 Option Agreement, through December 31, 2020. Without limiting the generality of the foregoing, Employee shall execute all documents and do all acts that Company reasonably requests to fulfill Employee's obligations under this Agreement or the Confidentiality and Non-Competition Agreement.

16. Return of Property. Employee affirms that Employee has and/or promptly will return all of Company's property, documents, passwords, access codes, equipment, and/or any confidential information in Employee's possession or control. Employee also affirms that Employee is and/or will be in possession of all of Employee's property that Employee had at Company's premises and that Company is not and/or will not be in possession of any of Employee's property.

17. Defend Trade Secrets Act Notice. Employee acknowledges that in accordance with the Defend Trade Secrets Act of 2016, he will not be held criminally or civilly liable under

any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. Employee also understands that if he files a lawsuit against the Company alleging retaliation for reporting a suspected violation of law, Employee may disclose the Company's trade secrets to his attorney and use the trade secret information in the court proceeding if he files any document containing the trade secret under seal and does not disclose the trade secret except under a court order.

18. General Provisions.

(a) The parties understand and agree that all terms of this Agreement and are contractual and are not a mere recital, and represent and warrant that they are competent and possess the full and complete authority to covenant and agree as herein provided.

(b) Employee understands, agrees, and represents that the covenants made herein and the releases herein executed may affect rights and liabilities of substantial extent and agrees that the covenants and releases provided herein are in Employee's best interest. Employee represents and warrants that, in negotiating and executing this Agreement, Employee has had an adequate opportunity to consult with competent counsel or other representatives of Employee's choosing concerning the meaning and effect of each term and provision hereof, and that there are no representations, promises or agreements other than those expressly set forth in writing herein.

(c) The parties have carefully read this Agreement in its entirety; fully understand and agree to its terms and provisions; intend and agree that it is final and binding and understand that, in the event of a breach, either party may seek relief, including damages, restitution and injunctive relief, at law or in equity, in a court of competent jurisdiction.

(d) The Employee agrees that he is not signing this Agreement in reliance upon any promise, representation or warranty not expressly contained in this Agreement, including its exhibits. Any oral representations regarding this Agreement, including its exhibits, shall have no force or effect. No modification, termination, or attempted waiver of any of the provisions of this Agreement shall be binding upon the Company unless reduced to writing and signed by a duly authorized official. Each provision of this Agreement is severable from each other provision of this Agreement. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining portions of this Agreement will continue to be operative and in full force and effect. This Agreement shall be construed according to a plain reading of its terms and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision in this Agreement. The Company's failure or delay in enforcing any provision of this Agreement will not be a waiver of enforcement of that provision or any other provision. All rights and remedies provided for in this Agreement are cumulative, are in addition to any other rights and remedies provided for by law, and may, to the extent permitted by law, be exercised concurrently or separately. The exercise of any one right or remedy shall not be deemed to be an election of such right or remedy or to preclude the exercise or pursuit of any other right or remedy.

(e) Except as otherwise provided herein or by law, no right or interest of Employee under this Agreement shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective.

(f) This Agreement and any dispute arising under this Agreement will be governed by Florida law, without regard to any conflict of law principles. Any litigation under this Agreement will be brought by either party exclusively in the federal courts located in Federal District Court, Middle District of Florida, Jacksonville Division and in no other venue. As such, the parties irrevocably consent to the jurisdiction of the courts in Federal District Court, Middle District of Florida, Jacksonville Division for all such disputes and to service of process via nationally recognized overnight carrier, without limiting other service methods available under applicable law, and waive the right to have a trial by jury under or in connection with this Agreement.

EMPLOYEE FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE AND RELEASE ALL EMPLOYMENT DISPUTES EMPLOYEE HAS OR MIGHT HAVE AGAINST RELEASEES. EMPLOYEE ACKNOWLEDGES THAT THIS AGREEMENT CONTAINS A RELEASE OF ALL KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED CLAIMS.

IN WITNESS WHEREOF, the undersigned have made, entered into, and executed this Agreement on the dates shown below.

7/31/2020
Date

/s/ Robert P. Jordheim
Employee

TREACE MEDICAL CONCEPTS, INC.

7/31/2020
Date

/s/ Jaime A. Frias
Name: Jaime A. Frias
Title: EVP, General Counsel

Exhibit 2

Stock Option Agreements

1. Stock Option Agreement dated December 19, 2017 for 285,714 shares at an exercise price of $1.40 per share (which is defined in Section 8 as the 2017 Option Agreement).
2. Stock Option Agreement dated December 19, 2017 for 164,286 shares at an exercise price of $1.40 per share.
3. Stock Option Agreement dated January 23, 2018 for 8,300 shares at an exercise price of $1.40 per share.
4. Stock Option Agreement dated January 22, 2019 for 42,500 shares at an exercise price of $2.10 per share.
5. Stock Option Agreement dated January 21, 2020 for 31,500 shares at an exercise price of $5.38 per share.

For the avoidance of doubt, Employee agrees that he may exercise his rights to purchase shares of the capital stock of the Company only with respect to 214,286 shares under the 2017 Option Agreement (i.e., the Purchasable Shares), and further agrees to not exercise any other right to purchase under any of the above-listed Stock Option Agreements.

Exhibit 10.9

September 11, 2020

Job Offer Summary
Chief Financial Officer ("CFO")
Mark Hair

Dear Mark,

It is with great pleasure that Treace Medical Concepts, Inc. ("Treace" or the "Company") offers you the full-time exempt position of Executive Vice President & Chief Financial Officer (CFO). You will be reporting to John T. Treace, CEO, and your proposed scheduled start date is September 21, 2020.

Lack of Employment Restrictions; Representations: You represent to Treace, and this offer of employment is conditioned on the fact that, you are under no restriction in either your current or any prior employment or other working relationship or otherwise, that you believe would prevent, limit or otherwise restrict you from being an employee of, and performing the duties of CFO with the Company. You also represent to Treace that you have provided Treace with a copy of any agreement with a prior employer imposing any noncompetition or nonsolicitation restrictions. Treace understands that you may be subject to non-competition, non-solicitation or confidentiality restrictions from current or former employers. Treace is extending employment to you based on your skill and ability and not because of any confidential or proprietary third-party contacts or information belonging to any current or former employers or customers that you may possess. Treace respects your obligations to your current and former employers or customers and expects you to honor them and the offer contained in this letter is subject to your compliance with or release from those obligations in form or substance acceptable to Treace. If you were to commence employment with the Company, and any third-party were to dispute your ability to work for the Company, the Company may modify the terms of your employment (if it so chooses and if possible) to accommodate any such restrictions; it being understood and agreed by you that should the Company determine in its sole discretion that such accommodation would not be in the best interests of the Company, your employment with the Company would be subject to immediate termination without liability to the Company. You further represent to Treace that you would not bring with you, nor use in your employment with the Company any confidential or proprietary information from any prior employer.

Salary: This position offers a biweekly salary of $11,538.46 which is the equivalent of $300,000 on an annual basis. This position is considered exempt.

Initial Stock Option Grant: You will be eligible to receive a grant of options (subject to confirmation by the Company's board of directors) to purchase that number of shares of the Company's Class A Common Stock equivalent to 0.60 percent (6/10ths of a percent) of Diluted Outstanding Shares (defined below) as of your start date. Such options to purchase the Company's Class A Common Stock would be granted as of your start date with an exercise price at its then current valuation. The Company will seek the board of directors' approval of this stock option grant no later than 14 days after your start date. "Diluted Outstanding Shares" means all of the Company's outstanding common and preferred stock as well as the issued and outstanding options and warrants. Such options would be subject to the Treace Medical Concepts, Inc. 2014 Stock Plan, as amended (the "2014 Plan") and the Company's standard form of stock option agreement and would vest in equal 25% increments over 4 years, subject to your continued employment with the Company on such vesting date. Additionally, the Company has established an annual performance-based option grant process in which you would be eligible to participate.

Special Stock Option Grant: You will be eligible to receive an additional grant of options to purchase that number of shares of the Company's Class A Common Stock equivalent to 0.40 percent (4/10ths of a percent) of the Diluted Outstanding Shares as of the grant date if by May 1, 2021 no Change of Control has taken place and you remain an employee of the Company. A "Change in Control" will have the meaning given in the 2014 Plan. The 2014 Plan defines a Change in Control as the occurrence of any of the following events:

(i) Any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company's then outstanding voting securities; or

(ii) The consummation of the sale or disposition by the Company of all or substantially all of the Company's assets; or

(iii) The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

Such options to purchase the Company's Class A Common Stock would be granted with an exercise price at its current valuation on the grant date of May 1, 2021, with a vesting beginning as of the grant date of your first stock option grant described in the previous section. Such options would be subject to the 2014 Plan and the Company's standard form of stock option agreement and would vest in equal 25% increments over 4 years, subject to your continued employment with the Company on such vesting date.

Special Event Bonus: You would receive a $150,000 bonus at completion of the earlier of (1) the sale of the Company which results in a Change of Control (as defined above) or (2) the closing of a fully underwritten, firm commitment public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale by the Company of its stock in which the aggregate net proceeds to the Company, after deducting underwriters' discounts and commissions, equals or exceeds $50 million.

Bonus Plan: You will be eligible to participate in the 2020 target bonus plan as defined and approved by the compensation committee of the Board of Directors. Target bonus is 40% of 2020 actual paid base compensation.

Health Insurance: The Company currently offers health insurance benefits through United Health Care. The Company covers approximately 70% of family and 80% of individual premiums. You would be eligible to enroll in the health plan on the first of the month following your date of hire.

Paid Vacation: As an Executive Vice President, you will be eligible to participate in the executive vacation plan accruing 4 weeks of vacation per year prorated from date of hire in the first year, then 4 weeks per year in the following years. This paid vacation time is in addition to 10 paid Holidays per year per the Company's holiday calendar.

Temporary Lodging/Housing: It is understood that you will not permanently move your household and family from start date in 2020 until approximately the summer of 2021. It is also recognized that an appropriate amount of time will be required by you onsite at the Company's headquarters during that timeframe although a certain amount of work may be completed remotely as

	agreed upon over time. As such the Company agrees to reimburse you up to $2,500 per month (with documented expense provided to Company) through August 2021 to offset cost of any housing or lodging accommodations that you may incur in the Jacksonville area during this period. Should you not fully relocate to the Jacksonville area prior to September 1, 2021, the Company may agree, at the Company's sole discretion, to continue to reimburse a reasonable amount (amount to be determined by August 2021), but not likely to exceed $2,500 per month adjusted for inflation) for housing or lodging-related expenses to ensure you can be present at the Company consistent with the needs of the business. The Company will also provide a one-time signing bonus of $10,000 to cover any sundry personal costs required to establish temporary lodgings in the Jacksonville area.
Relocation Expenses:	In the event of a future full relocation to the Jacksonville market that burdens you with incremental out of pocket expense, the Company agrees to work with you to develop an appropriate and reasonable budget to reimburse for such documented relocation-related expenses.
Travel:	While in temporary housing through the dates agreed upon as described above, the Company will pay for reasonable round trip travel expenses per the Company's travel policy to return to your permanent home in California up to once every two weeks.
Gross Up:	Any reimbursements for temporary lodging/housing, relocation expense, and travel that are subject to federal taxes as compensation income will be grossed up for applicable federal income taxes.
Severance and 280G:	As a follow up to your discussion with Tom Timbie today, this confirms that it is the Company's intent to offer you an agreement that provides for severance payments of no less than 12 months for separation without cause, including if related to a Change of Control. In addition, it is the Company's intent that you do not bear the burden of 280G excise taxes from excess parachute payments. As CFO, you will be part of the process for determining the strategy to implement both of these policies.

Execution of Certain Agreements; Background Check: This offer of employment is contingent on the satisfactory completion of a background and/or credit check, drug test and US employment eligibility verification, which will include, in part, reference checks with at least two individuals whose names you provide and who acted as your supervisor at a prior employer. You would be required upon commencement of employment to execute and deliver to the Company a restrictive covenant agreement that will contain, among other provisions, confidentiality, non-competition, non-solicitation, and assignment of inventions obligations, and confirmation of the at-will nature of the employment relationship. Nothing in this offer is intended to constitute or imply a contract of employment; employment with Treace is at will and subject to the terms of the Company's policies as in effect from time to time.

This offer will expire at 5:00PM Eastern time on September 14, 2020.

Agreed and Accepted /s/ Mark Hair
Mark Hair

Date: 9/11/2020

Exhibit 10.10

Job Offer Summary

VP, General Counsel, Secretary & Compliance Officer
Jim Frias

Title and Job Summary:	Reporting to the CEO, the VP, General Counsel, Secretary & Compliance Officer is responsible for: the management and execution of general corporate legal and compliance matters and activities for the Company; directing the legal affairs of the Company; managing outside counsel and developing litigation strategies and settlements for the Company; providing legal counsel and guidance on the corporate, patent and intellectual property activities of the Company; ensuring maximum protection of the Company's legal rights; directing the defense of the Company against suits or claims; preparing the prosecution of the Company's claims against others; overseeing the legal aspects of the Company's transactions and the preparation of reports and statements of a legal nature; acting as Secretary to the Company's Board of Directors and its various committees; and organizing, implementing and overseeing the Company's compliance program.
Start Date:	Monday, July 10, 2017.
Lack of Employment Restrictions; Representations:	Jim Frias (Frias) represents to Treace, and any offer of employment will be conditioned on the fact that, he is under no restriction whatsoever in either his current or any prior employment or other working relationship or otherwise, that would prevent, limit or otherwise restrict him from being an employee of, and performing the duties of **VP General Counsel, Secretary & Compliance Officer** with the Company. If Frias were to commence employment with the Company, and any third party were to dispute his ability to work for the Company, the Company may modify the terms of his employment (if it so chooses and if possible) to accommodate any such restrictions; it being understood and agreed by Frias that should the Company determine in its sole discretion that such accommodation would not be in the best interests of the Company, Frias' employment with the Company would be subject to immediate termination without liability to the Company. Frias further represents to Treace that he would not bring with him, nor use in his employment with the Company any confidential or proprietary information from any prior employer.

Stock Option Grant:	Frias will be eligible to receive (subject to confirmation by the Company's board of directors) a grant of options to purchase 300,000 shares of the Company's Class A Common Stock, with a strike price at its then current valuation. Such option would be subject to the Treace Medical Concepts, Inc. 2014 Stock Plan and would vest in equal 25% increments over 4 years. Additionally, the Company has established an annual option grant process that you would be eligible to participate in.
Salary:	Base Salary: $155,000 per year.
Bonus Plan:	Frias will be eligible to participate in the 2017 bonus plan as defined and approved by the compensation committee of the Board of Directors. The 2017 targeted bonus rate is 15% of base compensation.
Health Insurance:	The Company currently offers two Gold Level — United Health Care Plans. The Company covers approximately 70% of family and 80% of individual premiums. You would be eligible to enroll in the health plan on the first of the month following 60 days of employment.
Paid Vacation:	As an officer of the Company, you will participate in the executive vacation plan accruing 4 weeks of vacation per year prorated from date of hire in the first year, then 4 weeks per year in the following years. This paid vacation time is in addition to 10 paid Holidays per year per the Company's holiday calendar.
Execution of Certain Agreements; Background Check:	Frias would be required upon commencement of employment to execute and deliver to the Company a restrictive covenant agreement that will contain, among other provisions, confidentiality, non-competition, non-solicitation, and assignment of inventions obligations, and confirmation of the at-will nature of the employment relationship. Nothing in this offer is intended to constitute or imply a contract of employment; employment with Treace is at will and subject to the terms of the Company's policies as in effect from time to time. Any offer of employment would also be contingent on the satisfactory completion of a background and/or credit check, drug test and US employment eligibility verification.

This offer will expire at 5:00PM Eastern time on Friday, June 9, 2017.

Agreed and Accepted: Jim Frias: /s/ Jim Frias Date: June 8, 2017

PRODUCT DEVELOPMENT ROYALTY AGREEMENT

This Product Development Royalty Agreement ("Agreement") is entered into effective this day of , 20 ("Effective Date"), by and between **Treace Medical Concepts, Inc.**, a Delaware corporation with its principal office located at 203 Fort Wade Rd. Suite 150, Ponte Vedra, FL 32081, along with its affiliated companies ("Treace Medical"), and **,** an individual having an address at ("Assignor").

RECITALS

Treace Medical is in the business of researching, designing, developing and marketing medical devices used in connection with surgical applications.

Assignor has worked with employees and representatives of Treace Medical to help develop products defined by Treace Medical in accordance with the terms of this Agreement and of a Product Development Fee for Service Agreement dated between Assignor and Treace Medical (the "Product Development Agreement").

Assignor desires to assign to Treace Medical all of Assignor's rights in any and all Inventions and any and all associated Intellectual Property Rights.

Treace Medical desires to acquire all of Assignor's rights with respect to any and all Inventions and all associated Intellectual Property Rights.

Treace Medical desires to utilize the technical skills and services of Assignor in order to conduct a commercially meaningful transfer of Assignor's rights in the Inventions and all associated Intellectual Property Rights in order to fully carry out the development, clinical evaluation, marketing and commercialization of the Products.

Treace Medical and Assignor agree as follows:

DEFINITIONS

"Confidential Information" means the terms of this Agreement, information and materials concerning Treace Medical's business affairs, business strategies, pricing, costs, employee compensation, marketing plans, developmental plans, customers, vendors, finances, properties, methods of operations, technology, procedures, computer programs and documentation, inventions, developments, trade secrets, and other such information, whether written or oral, that is confidential in nature.

"Excluded Sales" means sales of Products for use in connection with patients under the care and treatment of Assignor, any partner or associate surgeon with whom Assignor practices, any hospital or surgery center at which Assignor has privileges to perform surgery or any entity in which Assignor has an ownership interest that results in Assignor having the right to exercise control over the policies or business decisions of the entity. A list of facilities whose purchases will be excluded from royalties paid under this Agreement is attached as Exhibit B. Such facilities shall also include those associated with any other health care professional receiving royalties on the Products listed on Exhibit A.

"Invention" means the idea(s) and/or product(s) described in Section 3 and/or Exhibit A (attached), including any know-how and/or technical information relating to the Product(s) in the possession of Assignor, or hereinafter developed by Assignor in the course of Assignor's providing services to Treace Medical pursuant to Section 6 of this Agreement or the Product Development Agreement.

"Intellectual Property Rights" or "IP Rights" means any patent and/or patent application relating to the Invention and/or Products and naming Assignor as an inventor or co-inventor. IP Rights include the following: any and all U.S. and foreign patents issuing from or claiming priority to any of the foregoing; any and all continuations, continuations-in-part, divisionals, reissues, or reexaminations based on or claiming priority to any of the foregoing; and any know-how and technology. IP Rights also include, without limitation, trade secrets; software; copyrights; trademarks; concepts; designs; techniques; formulae; inventions; trade names; trade dress; programs; advertising materials; and other documents, material, or information relating to the Invention(s) or Product(s).

"Net Sales" means the invoice price charged by Treace Medical to third parties for the Product(s), less (i) any refunds, credits, or write-offs; (ii) any commissions paid; (iii) any discounts or allowances actually given or credited; and (iv) any excise or other taxes or duties paid by Treace Medical on the sale of the Product(s). Net Sales shall not include any Excluded Sales.

"Product" means each product listed in the attached Exhibit A. Treace Medical may amend Exhibit A periodically with written notification to Assignor to update the list of Products.

1. REPRESENTATIONS ON LEGAL AUTHORITY AND OWNERSHIP

Assignor represents and warrants to Treace Medical the following:

(a) Assignor has the legal power and authority to enter into and be bound by the terms and conditions of this Agreement;

(b) To the extent Assignor possesses IP Rights relating to the Product as of the Effective Date, Assignor owns an undivided right, title, and interest in the Invention and IP Rights, free and clear of any and all liens, encumbrances, pledges, claims, or rights of any third party except those of Treace Medical set forth herein;

(c) the transfer and assignment of the Invention and all IP Rights by Assignor to Treace Medical pursuant to this Agreement will not violate any right of any other third party; and

(d) during the term of this Agreement and for a period of one (1) year from the termination or expiration of this Agreement, Assignor will not serve as a consultant for any companies or individuals who manufacture, distribute, or promote products that compete with any Product.

2. TAXES

Any amount received under this Agreement is gross of any taxes, fees, and levies of any nature whatsoever that may be imposed by an authority with jurisdiction over any amounts received by Assignor under this Agreement. Assignor shall pay any and all such taxes, fees, and levies.

3. INTELLECTUAL PROPERTY RIGHTS

3.1 **Right.** Treace Medical has the sole right to prepare, file, and prosecute any United States and/or international patent applications relating to the Invention, the Products and any applications included in the IP Rights.

3.2 **Responsibility.** Treace Medical will pay all costs and expenses (including, without limitation, attorneys', patent agents', or notarial fees) incurred in connection with the prosecution of the patent application after the Effective Date. Treace Medical will pay all patent maintenance fees.

3.3 **Documents Necessary.** Upon the request of Treace Medical, Assignor must execute all documents and take any action as may be necessary and advisable in order to assist Treace Medical to (a) maintain and enforce the IP Rights and (b) prepare, file, prosecute, obtain, maintain, and enforce any United States or foreign patent or patent application, including, without limitation, the giving of testimony in support thereof.

3.4 **Further Compensation.** Assignor shall not receive any further compensation or reimbursement in connection with these activities, except for appropriate expenses actually incurred and approved in advance by Treace Medical.

4. TRANSFER OF ASSETS

4.1 **Transfer.** Assignor does hereby irrevocably transfer, assign, and convey to Treace Medical Assignor's entire right, title, and interest in and to the Invention, the Products and all IP Rights relating thereto. Assignor shall execute all such documents deemed necessary to convey to Treace Medical all right, title, and interest in and to the Invention, the Products and all IP Rights.

4.2 **Payment for Transfer.** Treace Medical shall pay to Assignor, for the ownership rights to the Invention, the Products and all IP Rights, royalty payments equal to a certain percentage of the Net Sales of each Product for a certain period of time following the date of the first commercial sale of the relevant Product. Treace Medical shall determine the percentage and time period for each Product based on its assessment of the novelty, significance and innovativeness of the ideas contributed by Assignor towards the Product, the level of effort required of Assignor in the development of the Product, and whether Assignor is a named inventor on any issued US patent relating to the Product. If royalties are to be paid for the life of a patent relating to a Product where Assignor is a named inventor, it shall be a condition to such payment that the patent contains a valid claim covering the Product or a significant aspect thereof. Royalty rates per Product are set forth in Exhibit A.

4.3 **Third Parties.** If Treace Medical is required to pay third parties not involved with the development of a particular Product a royalty to allow Treace Medical to market and sell any Product, Treace Medical may reduce the royalty payment specified in Exhibit A in an equitable manner.

4.4 **Payment.** Any payment required pursuant to this Section 4 will be paid in United States Dollars. No more than one royalty payment calculated in accordance with Section 4.2 will be paid to Assignor per Product. Payments will be made within sixty (60) days of the end of each calendar quarter.

5. REPORTS AND RECORDS

5.1 **Maintenance.** Treace Medical shall submit to Assignor a written report at the time that it makes any payment pursuant to Section 4.2. The report will set forth, with respect to the previous calendar quarter, the Net Sales of the Product and the royalty amount as calculated under Section 4.2. Treace Medical shall keep and maintain records relating to this Agreement and the reports required by this Section 5 for a period of three (3) years from the dates of any transaction relating to this Agreement.

5.2 **Access.** Assignor may, at Assignor's own expense, verify Treace Medical's compliance with this Agreement once per calendar year, upon reasonable notice, during normal business hours, and without disruption to Treace Medical's business, to inspect, examine, and audit such records on a confidential basis.

6. SERVICES OF ASSIGNOR

6.1 **Technical Skills.** At Treace Medical's direction and request, Assignor shall provide Assignor's technical skills and services to Treace Medical in connection with the development and clinical evaluation of each Product, including:

(a.) providing input to Treace Medical on the development of the Products;

(b.) providing design feedback and modifications for the Products;

(c.) conducting presentations and demonstrations on the safe and effective use of the Products; and

(d.) developing advancements, improvements, and/or modifications of the Inventions and Products.

6.2 **Clinical Support.** Assignor shall provide Treace Medical with pre-clinical and clinical input, evaluation, support, and assistance in connection with clinical trials related to the development of each Product. To the extent Assignor's other business and medical practice commitments permit, Assignor must be available to provide such services as reasonably requested by Treace Medical.

6.3 **Expense Reimbursement.** Treace Medical shall reimburse Assignor for reasonable expenses of travel, lodging, daily meals, and other necessary and reasonable expenses incurred by Assignor in the performance of the services described in this Section 6, provided that such expenses are supported by original receipts

and other supporting documentation, that Assignor obtains the authorization of Treace Medical prior to incurring any such expenses, and that the expenses are proper in accordance with Treace Medical's Health Care Professional Reimbursement Policy ("HCP Policy") a copy of which is attached as Exhibit C.

7. CONFIDENTIALITY

7.1 **Privileged Relationship.** This Agreement creates a privileged and confidential relationship between Treace Medical and Assignor.

7.2 **Prohibited Use.** Assignor shall not use, directly or indirectly, for Assignor's own benefit or the benefit of others during the term of this Agreement and subsequent to its termination, any Confidential Information that may be acquired or developed in connection with, or as a result of, the performance of this Agreement.

7.3 **Exclusive Property.** All of the Confidential Information is and will continue to be the exclusive property of Treace Medical, whether or not prepared in whole or in part by Assignor and whether or not disclosed to or entrusted to the custody of Assignor.

7.4 **Nondisclosure.** Assignor shall not, either during the term of this Agreement or at any time thereafter, disclose any Confidential Information, in whole or in part, to any person or entity, for any reason or purpose whatsoever, unless Treace Medical provided Assignor with written consent to such disclosure.

8. INFRINGEMENT

8.1 **Defense.** Treace Medical may defend any claims of infringement that may be brought by third parties against Treace Medical as a result of the sale of any Product or the use of any Invention.

8.2 **Litigation.** Treace Medical may litigate patent infringement claims against any and all third parties who manufacture, sell, or otherwise use products that infringe on any IP Rights relating to any Product or Invention.

8.3 **Cooperation.** Treace Medical and Assignor shall cooperate with each other, at the expense of Treace Medical, in all matters concerning any such infringement.

9. TERM; TERMINATION; SURVIVABILITY

9.1 **Term.** This Agreement begins as of the Effective Date and will expire three (3) years from the Effective Date.

9.2 **Termination.** This Agreement can be terminated by either party upon a material breach not cured within sixty (60) days after receipt of written notice by the other party or can be terminated at any time upon mutual written agreement. In addition, Treace Medical may terminate this Agreement for convenience with ninety (90) days written notice to Assignor, provided that such termination will not affect Treace Medical's obligation to pay continuing royalties in accordance with the terms hereof.

9.3 **Survivability.** If this Agreement is terminated due to material breach by Assignor, Treace Medical may sell each Product without further obligation to and without additional royalty payments to Assignor.

10. LEGAL REQUIREMENTS

If Treace Medical requires that this Agreement or any document relating to the subject matter hereof to be notarized or submitted, filed, or registered with any government agency, Assignor must assist in complying with those requirements. Any such submission, filing, or registration will be made in the name of and for the benefit of Treace Medical at the expense of Treace Medical.

11. GOVERNING LAW; DISPUTE RESOLUTION

The laws of Florida, USA, govern the construction and interpretation of the terms of this Agreement without regard to principles of conflict of laws. Any and all causes of action arising from this Agreement will be litigated in the Federal District Court, Middle District of Florida, Jacksonville Division.

12. EXCUSABLE PERFORMANCE

Neither party may be liable to the other party for the failure to perform any duty or obligation that party may have under this Agreement, where such failure has been occasioned by an Act of God, fire, flood, civil commotion, riot, strike, legal moratorium, inevitable accident, war, regulatory delay, or any other cause outside the reasonable control of the party who had the duty or obligation to perform. The party whose performance has been interrupted shall give the other party notice of the interruption and the cause thereof and shall use every reasonable means to resume the full performance of the party's duties and obligations under this Agreement as soon as possible.

13. SEVERABILITY

The invalidity or unenforceability of any particular provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement. This Agreement will be construed and interpreted in all respects as if such invalid or unenforceable provision had not been contained in this Agreement, provided that any such provision be construed and interpreted by the courts as narrowly as necessary in order to make such provision valid and enforceable.

14. NO ASSIGNMENT

Neither this Agreement nor any of the rights conferred or obligations assumed hereby can be assigned, transferred, or otherwise disposed of by judicial process or otherwise to any person, firm, company, association, or entity without the prior written consent of the other party. However, upon written notice to Assignor, Treace Medical may assign this Agreement to any company which is a subsidiary or an affiliate of Treace Medical or to a purchaser of all or substantially all of the assets to which this Agreement pertains.

15. ENTIRE AGREEMENT; AMENDMENT

This Agreement contains the entire and exclusive understanding between the parties and supersedes any and all prior agreements, understandings, and arrangements, written or oral, between the Parties, relating to the subject matter hereof (provided that the Product Development Agreement shall not be affected). No amendment, change, modification, or alteration of the terms and conditions hereof, or any other writing or agreement, will be binding upon Assignor or Treace Medical unless in writing and signed by Assignor and a duly authorized officer of Treace Medical.

16. WAIVER

The waiver of any provision of this Agreement will not constitute a continuing waiver of that provision and will not prohibit any subsequent enforcement of that provision.

17. NOTICE

Any report, notice, disclosure, correspondence, or payment required, permitted, or given must be in writing and given personally or by facsimile, certified mail (return receipt requested), expedited delivery, or courier service and must be addressed to the parties' respective address as set forth in this Agreement or at such other address as a party may designate in writing to the other party.

18. SURVIVAL

Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12 will survive termination of this Agreement.

19. COUNTERPARTS

This Agreement can be executed in one or more counterparts and by each party in separate counterparts, each of which when executed is an original, but all of which taken together will constitute one and the same agreement.

Treace Medical and Assignor have executed this Agreement through duly authorized representatives.

TREACE MEDICAL CONCEPTS, INC.		**[ASSIGNOR]**	
By:		By:	
Name:	Jaime A. Frias	Name:	
Title:	EVP, General Counsel	Title:	
Date:		Date:	

EXHIBIT A TO ROYALTY AGREEMENT

This Exhibit will describe (a) the Product with respect to which Assignor has worked and will work with Treace Medical to develop; (b) the Inventions and IP Rights assigned to Treace Medical as a result of such work; and (c) the royalty rate to be paid, and the time period of such payment, as determined by Treace Medical in accordance with Section 4.2 of this Agreement.

A. Description of Product(s): [to be added]

B. Related Inventions and IP Rights: [to be added]

C. Royalty Rate and Duration: [to be added]

Product Name and Number	Product Description	Date of First Commercial Sale	Date Royalty Terminates	Royalty Rate

Treace Medical Initials:

Assignor Initials:

EXHIBIT B TO ROYALTY AGREEMENT
FACILITIES EXCLUDED FROM ROYALTY CALCULATIONS

Customer Name and Address	Customer Number

* Additionally, sales to any customers on the excluded facilities exhibit of other TMC royalty-bearing surgeon designers shall be excluded from Assignor's royalty calculations.

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated March 30, 2021, with respect to the financial statements of Treace Medical Concepts, Inc. contained in the Registration Statement and Prospectus. We consent to the use of the aforementioned report in the Registration Statement and Prospectus, and to the use of our name as it appears under the caption “Experts”.

/s/ GRANT THORNTON LLP
Jacksonville, Florida
March 30, 2021