

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

FORM 8-K

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

October 28, 2021

Date of Report (Date of earliest event reported)

inTEST Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

1-36117

(Commission File Number)

22-2370659

(I.R.S. Employer Identification No.)

804 East Gate Drive, Suite 200, Mt. Laurel, New Jersey 08054

(Address of Principal Executive Offices, including zip code)

(856) 505-8800

(Registrant's Telephone Number, including area code)

N/A

(Former name or former address, if changed since last report)

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

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

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

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, par value \$0.01 per share	INTT	NYSE American

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

Emerging growth company

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

Item 1.01. Entry into a Material Definitive Agreement.

On October 28, 2021, inTEST Corporation (the “Company”) entered into and consummated an Asset Purchase Agreement among the Company, Videology Imaging Corporation, a wholly-owned subsidiary of the Company (the “US Buyer”), Videology Imaging Solutions, Inc. (“Videology US”) and Carol Ethier (the “Owner”), pursuant to which the US Buyer acquired substantially all of the assets of Videology US for approximately \$7.2 million in cash.

In addition, on October 28, 2021, Ambrell B.V. (“Europe Buyer” and together with the US Buyer, the “Buyers”), a subsidiary of Ambrell Corporation, a wholly-owned subsidiary of the Company, entered into and consummated an Asset Purchase Agreement among Ambrell B.V., Videology Imaging Solutions Europe B.V. (“Videology B.V.”) and the Owner, pursuant to which Ambrell B.V. acquired substantially all of the assets of Videology B.V. for approximately \$4.8 million in cash.

Videology US and Videology B.V. are engaged in the business of developing and manufacturing imaging solutions serving medical, industrial, government security and other original equipment manufacturers.

Each of the Asset Purchase Agreements contains customary representations, warranties, restrictive covenants (including non-competition and non-solicitation provisions) and indemnification provisions. An indemnification escrow of \$1.2 million was funded at the closing from the proceeds payable to Videology US and is available to the Buyers to satisfy indemnification claims from both Asset Purchase Agreements until June 28, 2023. In addition, the Owner has guaranteed all of the obligations of Videology B.V. pursuant to its Asset Purchase Agreement.

The foregoing descriptions of the terms and conditions of the Asset Purchase Agreements for Videology US and Videology B.V. and the Company’s obligations thereunder are qualified in their entirety by references to the text of such Asset Purchase Agreements, copies of which are attached hereto as Exhibits 2.1 and 2.2, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

The information set forth in Item 2.03 of this Current Report on Form 8-K is incorporated herein by reference.

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

As previously disclosed, the Company entered into an Amended and Restated Loan and Security Agreement (the “Credit Agreement”) with M&T Bank on October 15, 2021. On October 28, 2021, the Company entered into a Joinder and Amendment to the Credit Agreement (the “Joinder”) and related agreements with M&T Bank to add the Company’s subsidiary, Videology Imaging Corporation, as a subsidiary guarantor under the Credit Agreement.

The Joinder, Amended and Restated Surety Agreement, Amended and Restated Patents, Trademarks, Copyrights and Licenses Security Agreement, Amended and Restated Delayed Draw Term Note 1, Amended and Restated Delayed Draw Term Note 1A, are filed as Exhibits 10.1, 10.2, 10.3, 10.4 and 10.5, respectively, to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1*	Asset Purchase Agreement among inTEST Corporation, Videology Imaging Corporation, Videology Imaging Solutions, Inc. and Carol Ethier dated October 28, 2021.
2.2*	Asset Purchase Agreement among Ambrell B.V., Videology Imaging Solutions Europe B.V. and Carol Ethier dated October 28, 2021.
10.1	Joinder and Amendment to Amended and Restated Loan and Security Agreement, dated October 28, 2021, among inTEST Corporation, Ambrell Corporation, inTEST Silicon Valley Corporation, inTEST EMS, LLC, Temptronic Corporation, Videology Imaging Corporation and M&T Bank.
10.2	Amended and Restated Surety Agreement, dated October 28, 2021, among Ambrell Corporation, inTEST Silicon Valley Corporation, inTEST EMS, LLC, Temptronic Corporation, Videology Imaging Corporation and M&T Bank.
10.3	Amended and Restated Patents, Trademarks, Copyrights and Licenses Security Agreement, dated October 28, 2021, among inTEST Corporation, Ambrell Corporation, inTEST Silicon Valley Corporation, inTEST EMS, LLC, Temptronic Corporation, Videology Imaging Corporation and M&T Bank.
10.4	Amended and Restated Delayed Draw Term Note 1, dated October 28, 2021.
10.5	Amended and Restated Delayed Draw Term Note 1A, dated October 28, 2021.
104	Cover Page Interactive Data File – the cover page XBRL tags are embedded within the Inline XBRL document.

* This filing omits exhibits and schedules pursuant to Item 601(a)(5) of Regulation S-K, which the registrant agrees to furnish supplementary to the Securities and Exchange Commission upon request.

SIGNATURE

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

inTEST CORPORATION

By: /s/ Duncan Gilmour
Duncan Gilmour
Chief Financial Officer, Treasurer and Secretary

Date: November 2, 2021

ASSET PURCHASE AGREEMENT

among

inTEST Corporation,

Videology Imaging Corporation,

Videology Imaging Solutions, Inc.

and

Carol Ethier

Dated as of October 28, 2021

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement, dated as of October 28, 2021, is entered into among Videology Imaging Corporation, a Delaware corporation (“Buyer”), inTEST Corporation, a Delaware corporation and parent of Buyer (“Guarantor”), Carol Ethier, an individual resident of the State of New Hampshire (“Owner”), and Videology Imaging Solutions, Inc., a Delaware close corporation (“Seller”).

BACKGROUND

WHEREAS, Seller is a global developer and manufacturer of imaging solutions serving medical, industrial, government security and other original equipment manufacturers (OEMs) (the “Business”).

WHEREAS, Owner is an owner, officer, director and employee of Seller and has the requisite authority to cause Seller to enter into this Agreement and to consummate the transactions contemplated hereby.

WHEREAS, subject to the terms and conditions set forth in this Agreement, Buyer, a wholly owned subsidiary of Guarantor, desires to purchase from Seller, and Seller desires to sell, assign, transfer, convey and deliver to Buyer, the assets used or held for use by Seller in the conduct of the Business.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants, agreements and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, each Party hereby agrees as follows:

ARTICLE I DEFINITIONS

Section 1.1 Certain Definitions. For purposes of this Agreement, the following terms when used in this Agreement shall have the meanings set forth below:

“Accounting Arbitrator” means RSM US LLP, or if such firm is unable or unwilling to act in such capacity, a nationally recognized accounting firm that has not performed any services for Buyer or Seller in the prior twelve (12) months, mutually selected by Buyer and Seller (or if they cannot agree on the selection, Buyer and Seller shall each select such a nationally recognized accounting firm, and those two firms shall select a third such nationally recognized accounting firm to serve as the Accounting Arbitrator).

“Affiliate” means, with respect to any specified Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. The term “control” means the possession, directly or indirectly, of the power to vote 50% or more of the securities or other equity interests of a Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, through the ownership of securities or membership or other ownership interests, by contract or otherwise, or being a director, officer, manager, managing member, executor, trustee or fiduciary (or their equivalents) of a Person or a Person that controls such Person.

“Agreement” means this Asset Purchase Agreement, as amended from time to time in accordance with the terms of this Agreement.

“Ancillary Agreements” means the Escrow Agreement, the Bill of Sale, the Assignment and Assumption Agreement, the Intellectual Property Assignment and each other agreement, document, instrument or certificate contemplated by this Agreement to be executed by Buyer or Seller in connection with the consummation of the transactions contemplated by this Agreement, in each case only as applicable to the relevant party or parties to such Ancillary Agreement.

“Books and Records” means all books, records, ledgers, files, financial records, bills, accounting, internal and audit records, plans, catalogs, pricing sheets, instructions and manuals, employee handbooks, information and records regarding employment and personnel matters of the Transferred Employees, equipment and parts lists, customer and supplier lists, labels and packaging materials, research and development materials, product specifications, manufacturing and process sheets and other printed, written or electronically-stored materials of whatever nature, in each case pertaining to any of the Acquired Assets or the Business, but excluding those which relate solely to the Excluded Assets.

“Bounce Note” means that certain Convertible Promissory Note dated March 6, 2014 by Bounce Imaging, Inc., a Delaware corporation, in favor of Seller, in the principal sum of \$150,000.

“Business Day” means any day that is not a Saturday, Sunday or other day on which the commercial banks in Delaware are required by Law to remain closed.

“Business Intellectual Property Rights” means the Intellectual Property Rights owned, licensed, used or held for use by Seller or otherwise desirable for or necessary to the operation of the Business or ownership of the Acquired Assets.

“Code” means the United States Internal Revenue Code of 1986.

“Competing Business” means the Business or any other business which is competitive with any portion of any of the Business.

“Contract” means any contract, instrument, agreement, agreement in principle, License, lease, sublease, plan, undertaking, arrangement, concession, understanding, note, bond, indenture, deed of trust, mortgage, loan agreement or other commitment, whether written or oral, and any amendments, modifications or supplements thereto, to which Seller is a party or by which Seller, the Business or any of the Acquired Assets is bound.

“Data Protection Law” means any Law, self-regulatory principle, industry standard, industry best practice, or contractual requirement related to, concerning, or which governs the collection, handling, storage, retention, transfer, disposal, distribution, Processing, use, transmission, disclosure, hosting, importing, exporting, and/or maintenance of Personal Data including (a) the Health Insurance Portability and Accountability Act of 1996 (HIPAA), (b) the Health Information Technology for Economic and Clinical Health Act (HITECH Act), (c) the Gramm-Leach-Bliley Act, (d) the EU General Data Protection Regulation, (e) the California Consumer Privacy Act, (f) any state medical privacy and security Laws, and (g) as applicable (i) the Digital Advertising Alliance’s Self-Regulatory Principles for Online Behavioral Advertising and Multi-Site Data Collection), (ii) U.S.-European Union and U.S.-Swiss Safe Harbor programs, (iii) U.S.-European Union Privacy Shield program, and (iv) any other published industry standard (including the PCI Data Security Standard and other requirements of payment card brands and payment networks).

“Disclosure Letter” means the disclosure letter delivered by Seller to Buyer concurrently with the execution and delivery of this Agreement.

“Effective Time” means 12:01 a.m. eastern time on the Closing Date.

“Environmental Laws” means any federal, state, local or foreign Laws relating to the protection of land, air, water, human health or safety, product content restrictions, waste disposal or the environment or Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, the Clean Water Act, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide and Rodenticide Act and the Occupational Safety and Health Act.

“ERISA” means the United States Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any Person, trade or business (whether or not incorporated) that together with Seller would be deemed a “single employer” within the meaning of Section 414 of the Code or under “common control” within the meaning of Section 4001(a)(14) of ERISA.

“Escrow Agent” means JPMorgan Chase Bank, N.A.

“Estimated Working Capital” means Seller’s good faith estimate of Working Capital as of the Effective Time as set forth on the Working Capital Certificate.

“Estimated Working Capital Adjustment” means the amount by which Estimated Working Capital exceeds the Working Capital Target (in which event the Estimated Working Capital Adjustment will be a positive amount) or by which the Working Capital Target exceeds the Estimated Working Capital (in which event the Estimated Working Capital Adjustment will be a negative amount).

“Europe B.V. Asset Purchase Agreement” means that certain Asset Purchase Agreement, dated as of the date hereof, among Ambrell B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands and a subsidiary of Guarantor, Videology Europe, and Owner.

“Final Working Capital” means the amount of Working Capital as of the Effective Time as finally determined pursuant to Section 3.4.

“GAAP” means United States generally accepted accounting principles in effect from time to time.

“Governmental Entity” means any federal, state, local, municipal or foreign government, or governmental, quasi-governmental or self-regulatory body, instrumentality, agency, department or subdivision thereof exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority, including any court, tribunal, arbitral body, commission, administrative agency or quasi-governmental or private body exercising any regulatory or taxing authority thereunder.

“Harmful Code” means any “malware,” “spyware,” “viruses,” “back doors,” “drop dead devices,” “time bombs,” “Trojan horses,” or “worms” (as such terms are commonly understood in the software industry) or other malicious code designed for the purpose of (a) disrupting, disabling, harming or otherwise impeding in any unintended manner the operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed, or (b) maliciously damaging or destroying, or providing unauthorized access or transmission of, any data or file without the user’s consent.

“Hazardous Materials” means any and all pollutants, contaminants, hazardous substances, hazardous chemicals, toxic substances, hazardous wastes, infectious wastes, electronic waste, radioactive materials or wastes, substances, materials, products, elements, petroleum (including crude oil or any fraction thereof), petroleum products or petroleum distillates, fractions or wastes, pesticides, asbestos or asbestos-containing materials, polychlorinated biphenyls, urea formaldehyde foam, radon gas, heavy metals and any other wastes, materials, chemicals or substances regulated, listed or restricted, or for which Liability or standards of conduct are imposed, pursuant to any Environmental Law.

“Indebtedness” means all Liabilities of Seller for borrowed money (other than current trade payables and other current liabilities which are recorded on the Working Capital Statement and included in the calculation of Final Working Capital), evidenced by a note, bond, debenture or similar instrument, created or arising under any lease that has been or should be accounted for in accordance with GAAP as a capital lease, created or arising under any conditional sale, contingent or otherwise, or other title retention agreement, under letters of credit, banker’s acceptances or similar credit transactions, for the deferred purchase price of property or services with respect to which Seller is liable, contingently or otherwise, as obligor or otherwise, secured by a lien on any of the Acquired Assets, for any other Person’s obligation or indebtedness, whether as obligor, guarantor or otherwise, any interest rate, currency or exchange obligations, swaps, hedges or similar agreements or arrangements and/or for any premiums, prepayment or termination fees, expenses or breakage costs due upon prepayment of any of the foregoing.

“Intellectual Property Rights” means all worldwide right, title and interest in and to all proprietary rights of every kind and nature pertaining to or deriving from any of the following, whether protected, created or arising under the Laws of the United States or any other jurisdiction: foreign and domestic patents and patent applications (including reissuances, divisions, renewals, provisional applications, continuations, continuations in part, revisions, extensions, substitutions and reexaminations), and all inventions (whether patentable or not), invention disclosures, and improvements thereof (collectively, “Patents”); trademarks, service marks, trade names, trade dress, logos, slogans and all other devices used to identify any product, service, business or company, whether registered or unregistered or at common law, including all foreign and domestic applications, registrations and renewals in connection therewith, and all goodwill associated with any of the foregoing (collectively, “Marks”); Internet domain names, and other Internet addresses, and user names, accounts, including social networking and social media accounts, pages, and online identities (and all goodwill associated with any of the foregoing, if any) (collectively, “Domain Names”); copyrights, original works, and all databases and data collections (including sui generis or database rights), whether registered or unregistered, and including all applications, registrations and renewals of any such thing, and all moral rights and neighboring rights associated therewith (“Copyrights”); trade secrets, know-how, source code, object code, inventions, discoveries, improvements, concepts, ideas, methods, processes, designs, plans, schematics, drawings, formulae, products in development, recipes, manufacturing processes, customer and market lists, technical data, specifications, research and development information, technology and product roadmaps, data bases and other proprietary or confidential information, (collectively, “Trade Secrets”); all computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code or other readable code (collectively, “Software”); (g) rights of publicity and rights of privacy; and (h) all income, royalties, damages and payments due or payable as of the Effective Time or thereafter with respect to the foregoing (including damages and payments for past, present or future infringements or misappropriations thereof), the right to sue and recover for past, present or future infringements or misappropriations thereof and any and all corresponding rights that now or hereafter may be secured throughout the world, and all copies and tangible embodiments thereof. Collectively, Patents, Marks, Domain Names, Copyrights, Trade Secrets and Software are referred to herein as “Intellectual Property.”

“Knowledge of Seller” means the actual knowledge of Carol Ethier and Marc LeClair and the knowledge of each such Person that would have been obtained after due inquiry by such Person.

“Law” means all laws, statutes, common law, treaties, rules, codes, regulations, restrictions, ordinances, orders, decrees, approvals, directives, policy statements, judgments, rulings, injunctions, writs, awards and decrees of, or issued or entered by, any Governmental Entity.

“Liabilities” means any debt, liability, commitment, Tax or obligation of any kind, character or nature whatsoever, whether known or unknown, asserted or unasserted, choate or inchoate, secured or unsecured, fixed, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due, vested or unvested, executory, determined, determinable or otherwise.

“Licenses” means all licenses, permits (including environmental, construction and operation permits), franchises, certificates, approvals, registrations, authorizations, variances and similar rights issued by any Governmental Entity and all pending applications therefor and renewals thereof.

“Liens” means all mortgages, deeds of trust, liens, statutory liens, pledges, security interests, charges, claims, options, restrictions, rights of first refusal, covenants, easements, rights of way, title defects and encumbrances of any kind or nature whatsoever.

“Material Adverse Effect” means any event, condition, change, fact, circumstance or effect, which individually or in the aggregate, has had, or would reasonably be expected to have, a material adverse effect on the business, financial condition, Liabilities, results of operations or prospects of the Business or the value of the Acquired Assets, or the ability of Seller to perform any of its obligations under this Agreement or any Ancillary Agreement; provided, however, that, with respect to the foregoing clause (a), none of the following will constitute a Material Adverse Effect: (i) any general changes in United States or global political, economic or market conditions; (ii) any general changes in United States financial or securities markets; (iii) any changes in Law or the interpretation thereof effected after the date of this Agreement; (iv) acts of terrorism, war (whether or not declared) or armed hostility; or (v) any failure to meet any internal or published projections, forecasts, or revenue or earnings predictions (provided that the underlying causes of such failures will not be excluded); provided, however, if a matter described in clauses (i) through (v) has had a disproportionate effect on the business, financial condition, Liabilities, results of operations or prospects of the Business compared to other Persons engaged in the same industry as the Business, then the impact of such matter on Seller shall be taken into account for purposes of determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur.

“Official” means (a) any officer, employee or any other Person acting in an official capacity for any Governmental Entity or any political party or official thereof, or any candidate for political office, or (b) any Person responsible for awarding customer Contracts to Seller.

“Organizational Documents” means with respect to a corporation, the certificate or articles of incorporation and bylaws, with respect to a limited liability company, the certificate of formation or organization and the operating or limited liability company agreement, with respect to a limited partnership, the certificate of limited partnership and the limited partnership agreement, or with respect to any other Person, any charter or similar document adopted or filed in connection with the creation, formation or organization of such Person, each as amended and in effect as of the date of this Agreement.

“Other Acquired Assets” means all rights to telephone and telecopy numbers and email addresses of Seller relating to the operation of the Business or the Acquired Assets; all claims and causes of action of Seller against third parties relating to the operation of the Business or the Acquired Assets; and all rights of indemnity, warranty rights, rights of contribution, claims for refunds (other than for Taxes paid by Seller), rights of offset, rights of reimbursement (other than for prepaid insurance) and other rights of recovery of Seller, in each case, to the extent related to the Acquired Assets.

“Party” means, individually, each of Buyer, Guarantor, Seller and Owner, and “Parties” means, collectively, Buyer, Guarantor, Seller and Owner.

“Payoff Letter” means a letter, in form and substance reasonably satisfactory to Buyer, executed by a holder of outstanding Indebtedness prior to the Closing, with each payoff letter for outstanding Indebtedness indicating that upon payment of the specified amount (together with the per diem amount to be added thereto in the event that the actual Closing Date is a date subsequent to the projected Closing Date) pursuant to the payment instructions contained therein, (a) such Indebtedness shall be paid in full and, if applicable, any Liens associated therewith shall terminate automatically, subject only to the receipt of such payment amount, and (b) the applicable lender will, or Seller (or its designee) shall have all authorizations and power to, file any necessary Uniform Commercial Code termination statements or such other documents, notice filings, or endorsements necessary to release of record any such Liens.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, trust, unincorporated organization, Governmental Entity or any other entity of any kind or nature whatsoever.

“Personal Data” means information or data that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked to an individual household, or device, such as a name, address, phone number, IP address, email address, or other unique or persistent identifier, social security number, driver’s license number, password, financial account number, credit card number, credit report information, health and medical information, biometric identifier, user name, geolocation information and/or behavioral information related to an individual.

“Policies” means any internal or external policy governing or concerning the storage, use, Processing, collection, disclosure, handling, transmission or distribution of Personal Data, including any internal written information security policies and procedures and any public-facing privacy policies.

“Proceeding” means any action, complaint, charge, demand, claim, arbitration, audit, hearing, investigation, litigation or suit (whether civil, commercial, labor, criminal, administrative, investigative or informal) commenced, brought, conducted, or heard by or before, or otherwise involving any Governmental Entity or arbitrator or any other Person.

“Process” means to perform any operation or set of operations on any data, information, material, work, expression or other content, including to (a) collect, receive, input, upload, download, record, reproduce, store, organize, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate or make other improvements or derivative works, (b) process, retrieve, output, consult, use, disseminate, transmit, submit, post, transfer, disclose or otherwise provide or make available, or (c) block, erase or destroy. “Processing” and “Processed” have correlative meanings.

“Products” means any and all camera and surveillance-related equipment and other products with respect to the Business manufactured, distributed, marketed or sold by Seller or its Affiliates.

“Release” means any seeping, spilling, leaking, pumping, pouring, emitting, emptying, burying, discharging, injecting, escaping, leaching, vaporizing, dumping or disposing into the environment, including continuing migration, of Hazardous Materials into or through soil, surface water or groundwater.

“Representatives” means any Affiliates, officers, directors, managers, owners, employees, agents or other representatives (including investment bankers, attorneys and accountants) of a Party.

“Services” means the manufacturing, repair, packaging, sale or procurement of parts, repairs, producing, selling, distributing, promoting, advertising and marketing of Products.

“Specifically Excluded Liabilities” means, whether or not disclosed on the Disclosure Letter, Seller’s Liabilities under this Agreement; Seller’s Liabilities with respect to Indebtedness (other than current trade payables and other current liabilities which are recorded on the Working Capital Statement and included in the calculation of Final Working Capital); Seller’s Liabilities relating to any Proceeding arising out of or in connection with Seller’s conduct of the Business or otherwise, or any other conduct of Seller or Seller’s officers, directors, equityholders, employees, consultants, agents or Representatives on or prior to the Closing Date; Seller’s Liabilities relating to any employees who are offered employment by Buyer in accordance with this Agreement but who decline to accept such offer, or who are not offered employment by Buyer; any Liabilities relating to or arising under any Benefit Plan, any “employee benefit plan” (as defined in ERISA) or any Employment Arrangement at any time maintained or contributed to by Seller or its equityholders or any ERISA Affiliate, or with respect to which Seller or any ERISA Affiliate has any Liability, including any Withdrawal Liability; any Liabilities of Seller to any of its equityholders, Affiliates, employees or officers (or a person related by blood or marriage to any such equityholder, Affiliate, employee or officer), including any Liability of Seller to distribute to any of its equityholders or otherwise pay or apply all or any part of the consideration delivered or to be delivered by Buyer pursuant to this Agreement; any Liability to indemnify, reimburse or advance amounts to any officer, director, equityholder, employee or agent of Seller while acting as such; any Liabilities under any Contract that is not an Assumed Contract; any Liabilities relating to the operation of the Business or the ownership of the Acquired Assets prior to the Closing Date arising out of or relating to Environmental Laws or Hazardous Materials; Seller’s Liabilities which Buyer may become liable for as a result of any “de facto merger,” “successor-in-interest” or “fraudulent conveyance” theories of liability; and any Liabilities arising out of or related to any breach or alleged breach by Seller of any Assumed Contract prior to the Effective Time, in each case, regardless of when any such Liability is asserted.

“Tax” or “Taxes” means, with respect to any Person, (a) all taxes (including any tax on or based upon net income, or gross income, or income as specially defined, or earnings, or profits, or selected items of income, earnings or profits) and all gross receipts, sales, use, ad valorem, transfer, franchise, escheat or unclaimed property (whether or not treated as a tax under applicable Law), license, withholding, payroll, employment, excise, severance, occupation, premium, property or windfall profits taxes, real property tax, alternative or add-on minimum taxes, estimated, entertainment, amusement, healthcare (whether or not treated as a tax under applicable Law), or other taxes, customs duties, fees (including accounting, financial advisor and legal fees directly associated therewith), assessments or charges of any kind whatsoever (whether paid directly or by withholding), together with any interest and any penalties, additions to tax or additional amounts, imposed by any Governmental Entity and (b) any Liability for the payment of any amount of the type described in the immediately preceding clause (a) as a result of (i) being a “transferee” (within the meaning of Section 6901 of the Code or any other applicable Law) of another Person or a member (or ceasing to be a member) of an affiliated or combined group (or being included (or required to be included) in any Tax Return thereto), (ii) being (or ceasing to be) a member of an affiliated, consolidated, unitary or combined group or (iii) a contractual obligation or otherwise.

“Tax Return” means any report, return, declaration, statement or other information, in whatever form or medium, required to be supplied to a Governmental Entity in connection with Taxes, including estimated returns and reports of every kind with respect to Taxes.

“Treasury Regulations” means the regulations promulgated under the Code, including any temporary regulations.

“Videology Europe” means Videology Imaging Solutions Europe B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands and wholly-owned by Owner.

“Withdrawal Liability” means any Liability imposed under Subtitle E, part I of Title IV of ERISA.

“Working Capital” means (a) the current assets of Seller and Videology Europe, less (b) the current liabilities of Seller and Videology Europe, which, for purposes of this Agreement, shall be determined in accordance with and shall include only those categories of current assets and current liabilities set forth on Section 1.1 of the Disclosure Letter (the “Working Capital Methodology”).

“Working Capital Target” means \$1,826,820.

Section 1.2 Other Definitions. Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Acquired Assets	2.1
Allocation Methodology	3.6
Allocation Objection	3.6
Assignment and Assumption Agreement	7.2(c)
Assumed Contracts	2.1(b)
Assumed Liabilities	2.3
Benefit Plans	4.18(a)
Bill of Sale	7.2(b)
Business	Background
Buyer Indemnified Parties	8.2
Buyer	Preamble
Cap	8.5(b)
CARES Act	4.9(n)
Claim Notice	8.4(a)
Claimed Amount	8.4(c)
Closing	7.1
Closing Date	7.1
COBRA	4.18(f)

Commercial Software	4.21(f)
Confidential Information	6.10(a)
Consent	4.15
Data Room	1.3
Direct Claims Dispute Period	8.4(c)
Dispute Notice	3.4(b)
Employees	4.19(a)
Employment Arrangements	4.19(a)
Escrow Agreement	3.3
Escrow Amount	3.3
Excluded Assets	2.2
Excluded Liabilities	2.4
Final Allocation	3.6
Financial Statements	4.5
Fundamental Cap	8.5(b)
Fundamental Representations	8.1
Governmental Consents	4.4
Indemnification Basket	8.5(b)
Indemnified Party	8.4(a)
Indemnifying Party	8.4(a)
Intellectual Property Assignment	7.2(d)
Inventory	2.1(d)
IRS	4.18(d)
Leased Real Property	4.10(a)
Liability Claim	8.4(a)
Licenses-In	4.21(a)
Licenses-Out	4.21(a)
Litigation Conditions	8.4(b)
Losses	8.2
Material Contract	4.11(a)
Most Recent Financial Statements	4.5
Owned Business Intellectual Property	4.21(a)
Personal Property	2.1(c)
Purchase Price	3.1
Purchase Price Allocation	3.6
Registered Business Intellectual Property	4.21(a)
Response Notice	8.4(c)
Restricted Period	6.10(b)
Seller	Preamble
Seller Indemnified Parties	8.3
Third Party Claim	8.4(b)
Transferred Employees	6.1(a)
Transfer Taxes	6.7(a)
Working Capital Certificate	3.2(a)
Working Capital Statement	3.4(a)

Section 1.3 Rules of Construction. Unless the context otherwise requires: (a) an accounting term not otherwise defined herein shall be construed in accordance with GAAP; (b) references in the singular or to “him,” “her,” “it,” “itself,” or other like references, and references in the plural or the feminine or masculine reference, as the case may be, shall also, when the context so requires, be deemed to include the plural or singular, or the masculine or feminine reference, as the case may be; (c) references to Articles, Sections and Exhibits shall refer to articles, sections and exhibits of this Agreement, unless otherwise specified; (d) the headings in this Agreement are for convenience and identification only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision thereof; (e) this Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party that drafted and caused this Agreement to be drafted; (f) all monetary figures shall be in United States dollars unless otherwise specified; (g) references to “including” in this Agreement shall mean “including, without limitation,” whether or not so specified; (g) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other theory extends and such phrase shall not mean “if”, and (i) references in this Agreement to any Law shall be deemed to refer to such Law, as amended, and to all rules and regulations promulgated thereunder. The term “made available” when used in reference to Seller having made information available to Buyer or any of its Representatives, means that such items or information were made available by Seller via the posting of such items or information to the electronic data site maintained by Firmex Datasite under the data room entitled “Project Sasson inTEST” (“Data Room”) at least three (3) Business Days prior to the date of this Agreement.

ARTICLE II PURCHASE AND SALE

Section 2.1 Agreement to Purchase and Sell Acquired Assets. Subject to the terms and conditions of this Agreement, on the Closing Date, and in reliance upon the representations and warranties made by Seller to Buyer in this Agreement, Seller shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall purchase and acquire from Seller, free and clear of all Liens, all of Seller’s rights, properties and assets of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible, and wherever located) and whether or not required to be reflected on a balance sheet prepared in accordance with GAAP, owned or used or held for use by Seller in the operation of the Business, but excluding the Excluded Assets (the “Acquired Assets”), including the following:

- (a) all accounts receivable, trade receivables, customer deposits, notes receivable (other than the Bounce Note) and other receivables of the Business;
- (b) all rights of Seller under the Contracts listed on Section 2.1(b) of the Disclosure Letter and all customer orders, vendor orders and other purchase orders (including all express and implied warranties, representations and guarantees made by suppliers, vendors, manufacturers, contractors and other Persons) outstanding as of the Effective Time relating to the Business (each, an “Assumed Contract,” and collectively, the “Assumed Contracts”);
- (c) all tangible personal property relating to the Business, including all equipment, machinery, trucks and other vehicles, tools, spare parts, furniture, fixtures, leasehold improvements, office equipment and supplies, materials, computers and related equipment, telephones, telecopiers and other personal property of any kind or nature owned or leased (the “Personal Property”), including those assets which are listed on Section 2.1(c) of the Disclosure Letter;

(d) all inventory relating to the Business, including finished goods, parts, raw materials, supplies and consumables, work in progress, packaging and material and other inventory property, including all such inventory which may be in transit or in the possession of any third party (the “Inventory”);

- (e) all Business Intellectual Property Rights and tangible embodiments thereof;
- (f) all deposits and prepaid expenses of the Business;
- (g) all Licenses of Seller related to the Business;
- (h) all Books and Records;
- (i) the Other Acquired Assets; and
- (j) all goodwill of the Business and the Acquired Assets.

Section 2.2 Excluded Assets. Notwithstanding anything to the contrary set forth in this Agreement, Seller shall not sell, and Buyer shall not purchase or acquire, and the Acquired Assets shall not include, the following assets, properties and rights of Seller (collectively, the “Excluded Assets”):

- (a) all of Seller’s cash and investment securities, including the Bounce Note;
- (b) rights to refunds of Taxes paid by Seller, whether paid directly by Seller or indirectly by a third party on Seller’s behalf;
- (c) Contracts that are not Assumed Contracts;
- (d) Licenses exclusively related to the Excluded Assets;
- (e) the stock books, minute books and similar corporate records of Seller;
- (f) all rights of Seller under this Agreement and any Ancillary Agreement;
- (g) all Benefit Plans and all trust agreements, services agreements, and assets attributable thereto;
- (h) all rights, claims and causes of action relating solely to any Excluded Asset or any Excluded Liability;
- (i) Contracts of insurance in respect of the Business; and
- (j) the assets listed on Section 2.2(j) of the Disclosure Letter.

Section 2.3 Assumed Liabilities. In connection with the purchase and sale of the Acquired Assets, and simultaneously with the sale, assignment, transfer, conveyance and delivery to Buyer, as applicable, of the Acquired Assets, at the Closing, Buyer shall assume and pay, discharge and perform, as and when due only the following Liabilities (collectively, the “Assumed Liabilities”):

(a) the Liabilities of Seller that arise on or after the Effective Time under each Assumed Contract; and

(b) the following ordinary course Liabilities of Seller as of the Effective Time related to the operation of the Business but only to the extent that the amount of each such Liability is included in the Final Working Capital: accounts payable of the Business not past due owed to the vendors which are listed on Section 2.3(b) of the Disclosure Letter, and accrued expenses of the Business; provided, that if any Liability referred in this Section 2.3(b) is not included in the Final Working Capital, Buyer shall not have any responsibility for any such Liability.

Section 2.4 Excluded Liabilities. EXCEPT FOR THE ASSUMED LIABILITIES, BUYER SHALL NOT AND DOES NOT ASSUME ANY LIABILITIES OF SELLER (OR ANY PREDECESSOR OF SELLER OR ANY PRIOR OWNER OF ALL OR ANY PART OF THE BUSINESS OR THE ACQUIRED ASSETS), ITS AFFILIATES OR ERISA AFFILIATES, WHETHER OR NOT ARISING OUT OF OR RELATING TO THE ACQUIRED ASSETS OR THE BUSINESS OR ANY OTHER ASSETS OF SELLER OR ITS AFFILIATES. ALL SUCH LIABILITIES (“EXCLUDED LIABILITIES”) SHALL AFTER THE EFFECTIVE TIME REMAIN THE EXCLUSIVE RESPONSIBILITY OF SELLER OR ITS AFFILIATES (AS APPLICABLE) AND SELLER SHALL PAY AND DISCHARGE SUCH LIABILITIES AS AND WHEN DUE. Such Excluded Liabilities include:

(a) any Liability based on any actual or alleged defect in the design, manufacture, quality, conformity to specification or fitness for a particular purpose, or based on the labeling, of any Product manufactured or sold by, or for, Seller, or any service provided by Seller and/or the Business, before the Effective Time, including all product Liability, product warranty Liabilities and all Liabilities in respect of product recalls, product warnings or product labeling regardless of when made or asserted and whether for injury to person or property, and any Liability which arises out of or is based upon any express or implied representation, warranty, agreement or guarantee made by Seller, or alleged by a third party to have been made by Seller, or which is imposed or asserted by a third party to be imposed by operation of Law or contractually, in connection with any service performed or Product manufactured or sold by Seller prior to the Closing Date;

(b) any federal, state, local or foreign income or other Tax of Seller or any of its Affiliates, payable with respect to the Business or the Acquired Assets for any period prior to the Effective Time, incident to or arising as a consequence of the consummation by Seller of the transactions contemplated by this Agreement (including income Taxes arising as a result of Seller transferring the Acquired Assets), payable by Seller pursuant to Treasury Regulation Section 1.1502-6 (or similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise or (v) that is a Transfer Tax (other than Transfer Taxes which are the responsibility of Buyer pursuant to Section 6.7(a));

- (c) any Liability with respect to the Excluded Assets;
- (d) the Specifically Excluded Liabilities;
- (e) any current employment agreement or other current compensation arrangement with Carol Ethier; and
- (f) any Liabilities incurred, arising out of or relating to the operation of the Business or the ownership or use of the Acquired Assets prior to the Effective Time.

Section 2.5 Assignability of Assumed Contracts. Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Assumed Contract if an attempted assignment thereof, without the necessary consent, waiver or approval of another party thereto or any Governmental Entity, would constitute a breach of any such Assumed Contract or adversely affect the rights of Buyer thereunder. If such consents, waivers or approvals are not obtained prior to the Effective Time, Seller shall cooperate in any reasonable arrangement designed to provide Buyer with the benefits of such Assumed Contract, enforce at the request of Buyer any rights of Seller arising from such Assumed Contract (including a right of termination), and promptly pay to Buyer when received all monies received by Seller under such Assumed Contract. Buyer agrees (subject to the immediately preceding sentence) to use commercially reasonable efforts to perform any obligations relating to an Assumed Contract for which benefits are being provided to Buyer in accordance with the preceding sentence to the same extent required of Seller, in as near as practicable a manner and time required of Seller. Prior to the Effective Time and following the Closing Date, Seller and Buyer shall use commercially reasonable efforts to obtain all consents, waivers and approvals necessary to assign the Assumed Contracts to Buyer, and in connection with such efforts, Seller shall pay any and all fees and costs payable in connection with the assignment of such Assumed Contracts to Buyer. If and when any such waivers, consents or approvals shall be obtained, such Assumed Contract shall be deemed assigned to Buyer without the payment of any consideration therefor

ARTICLE III PURCHASE PRICE; ESCROW; ADJUSTMENTS; ALLOCATIONS

Section 3.1 Purchase Price. The aggregate purchase price to be paid for the Acquired Assets shall be Seven Million Two Hundred Thousand Dollars (\$7,200,000) (the "Purchase Price") subject to adjustment pursuant to Section 3.4. In addition to the payment of the Purchase Price in accordance with Section 3.2, as consideration for the sale, assignment, transfer, conveyance and delivery of the Acquired Assets, Buyer shall assume and discharge the Assumed Liabilities.

Section 3.2 Payment of Purchase Price.

(a) By the end of the second Business Day immediately prior to the Closing Date, Seller shall have delivered to Buyer a certificate, substantially in the form attached hereto as Exhibit A, which has been approved by Buyer (the "Working Capital Certificate"), signed by an executive officer of Seller, which shall set forth the amount of the Estimated Working Capital.

(b) At the Closing, Buyer shall pay or cause to be paid (subject to Sections 3.5), by wire transfer of immediately available funds, to Seller, the Purchase Price plus the Estimated Working Capital Adjustment minus the amount of Indebtedness referenced in the following clause (ii) minus the Escrow Amount, to such account as is specified prior to the Closing by Seller, (ii) to the intended beneficiaries thereof as identified in the Payoff Letters provided to Buyer prior to Closing, the Indebtedness required to be paid at the Closing in order to release any Lien on an Acquired Asset, and (iii) to the Escrow Agent, the Escrow Amount, to such account as is specified prior to the Closing by the Escrow Agent.

Section 3.3 Escrow. At the Closing, Buyer shall, in accordance with Section 3.2(b), deposit into an escrow account with the Escrow Agent, the aggregate amount of One Million Two Hundred Thousand Dollars (\$1,200,000) (the "Escrow Amount") as a source for effecting the payment and discharge of any indemnification obligations of Seller to the Buyer Indemnified Parties set forth in Article VIII of this Agreement, amounts related to adjustments pursuant to Section 3.4, and any indemnification obligations of Seller's Affiliate, Videology Imaging Solutions Europe B.V., to Ambrell B.V. (a subsidiary of Guarantor) and its Affiliates pursuant to the Europe B.V. Asset Purchase Agreement. The Escrow Amount shall be held by the Escrow Agent and payable to the Parties pursuant to the terms of an escrow agreement among Buyer, Seller and the Escrow Agent, substantially in the form attached hereto as Exhibit B (the "Escrow Agreement").

Section 3.4 Adjustment of Purchase Price for Working Capital.

The amount of the Final Working Capital shall be determined in the following manner:

(a) Representatives of Seller and Buyer will jointly perform, within the two days immediately following the Closing Date, a physical count of the Inventory and mutually agree upon the total quantity of such Inventory as of the Effective Time. Within ninety (90) days after the Closing Date, Buyer will cause to be prepared and delivered to Seller a statement in accordance with GAAP and the Working Capital Methodology which shall set forth its calculation of the Final Working Capital (the "Working Capital Statement"), together with reasonably detailed supporting information. For purposes of preparing the Working Capital Statement and determination of the amounts of the Final Working Capital, in the event of any conflict between GAAP and the provisions of this Agreement, GAAP shall control.

(b) Seller shall have thirty (30) days from the date of its receipt of the Working Capital Statement to review the Working Capital Statement as to the calculation and amounts of the Final Working Capital reflected thereon. Buyer shall provide to Seller and its accountants and Representatives reasonable access upon reasonable prior notice to all work papers, documentation and data prepared or used by Buyer in connection with preparation of the Working Capital Statement. If Seller disputes any amounts shown on the Working Capital Statement, Seller must give to Buyer, prior to the expiration of such thirty (30) day review period, written notice (a "Dispute Notice") of any objections of Seller to the Working Capital Statement setting forth Seller's calculation of the Final Working Capital and describing in reasonable detail the basis (including for each component of the Final Working Capital, the difference and the amount thereof and reasons therefor) for the determination of such different amount. Any items not disputed in the Dispute Notice will be deemed to have been accepted by Seller. If Seller does not deliver a Dispute Notice with respect to the Working Capital Statement within such 30-day period, such Working Capital Statement will be final, conclusive and binding on the Parties. If Seller delivers a timely Dispute Notice in accordance with the foregoing, Buyer and Seller shall negotiate in good faith to resolve such dispute. Seller will provide Buyer and its accountants and Representatives reasonable access upon reasonable prior notice to all work papers, documentation and data prepared or used by Seller in the preparation of Seller's proposed calculation of Final Working Capital.

(c) If Buyer and Seller are unable to agree in writing on the resolution of all items disputed in a Dispute Notice pursuant to subsection (b) above within fifteen (15) days following Buyer's receipt of the Dispute Notice, the unresolved disputed items will be referred for final binding resolution to the Accounting Arbitrator. The Accounting Arbitrator's function shall be to review only those specific components set forth on the Working Capital Statement and Dispute Notice that Seller and Buyer were not able to resolve and that remain in dispute and to resolve the dispute with respect to such specific components. The Accounting Arbitrator shall determine, based solely on presentations by Buyer and Seller and their respective Representatives, and not by independent review, only those issues in dispute and shall render a written report as to the Accounting Arbitrator's determination on the dispute. In resolving any disputed item, the Accounting Arbitrator shall be bound by the provisions of this Agreement, and shall not assign a value to any item greater than the greatest value claimed by Buyer to the Accounting Arbitrator (which cannot be greater than the value for such item in the Working Capital Statement) or claimed by Seller to the Accounting Arbitrator (which cannot be greater than the value for such item in the Dispute Notice) or less than the smallest value for such item claimed by Buyer to the Accounting Arbitrator (which cannot be less than the smallest value for such item in the Working Capital Statement) or claimed by Seller to the Accounting Arbitrator (which cannot be less than the smallest value for such item in the Dispute Notice). The Accounting Arbitrator may not award the Parties in the aggregate more than the amount in dispute. The Accounting Arbitrator shall be requested with respect to all disputed items submitted to it to render its written decision within thirty (30) days of submission or as soon as practicable thereafter, and shall send copies of such written decision to Buyer and Seller. Seller shall pay or cause to be paid that portion of the fees and expenses of the Accounting Arbitrator equal to 100% multiplied by a fraction, the numerator of which is the amount of disputed items submitted to the Accounting Arbitrator that are resolved in favor of Buyer (computed as the aggregate sum of the difference for each disputed item between the Accounting Arbitrator's determination and the amount claimed by Seller in its presentation to the Accounting Arbitrator for such disputed item) and the denominator of which is the total amount of disputed items submitted to the Accounting Arbitrator (computed as the aggregate sum of the difference for each disputed item of the amount claimed by Buyer in its presentation to the Accounting Arbitrator for such disputed item and the amount claimed by Seller in its presentation to the Accounting Arbitrator for such disputed item). Buyer shall pay that portion of the fees and expenses of the Accounting Arbitrator that Seller is not required to pay pursuant to the preceding sentence. The amount of the Final Working Capital (as agreed upon by Buyer and Seller or as finally determined by the Accounting Arbitrator pursuant to this Section 3.4(c), as the case may be) shall be considered final and binding on the Parties. Without limiting the generality of the foregoing, Buyer and Seller agree to be bound by all such determinations made pursuant to this Section 3.4, including all resolutions of disputed items determined by agreement of Buyer and Seller.

(d) If Final Working Capital is less than the Estimated Working Capital, then the Purchase Price will be adjusted downward, dollar for dollar, by the amount of such shortfall and Seller shall pay to Buyer, by bank wire transfer of immediately available funds to an account designated in writing by Buyer, an amount in cash equal to such shortfall within five (5) Business Days from the date on which Final Working Capital is finally determined.

(e) If Final Working Capital is greater than the Estimated Working Capital, then the Purchase Price will be adjusted upward, dollar for dollar, by the amount of such excess and Buyer shall pay to Seller, by bank wire transfer of immediately available funds to an account or accounts designated in writing by Seller, an amount in cash equal to such excess within five (5) Business Days from the date on which Final Working Capital is finally determined.

(f) If Final Working Capital as finally determined is equal to the Estimated Working Capital, then there will be no adjustment to the Purchase Price.

Section 3.5 Withholding Rights. Notwithstanding anything in this Agreement to the contrary, Buyer or its designee shall be entitled to withhold and deduct from the consideration otherwise payable pursuant to this Agreement such amounts as Buyer is required to deduct and withhold with respect to the making of such payment under the Code or any provision of state, local or foreign Tax Law. To the extent that amounts are so withheld and paid over to the appropriate Tax authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding were made. Notwithstanding the foregoing, Buyer shall provide Seller with prior written notice of the intent to withhold on such amounts at least three (3) Business Days prior to the date that such payment is required to be made to give Seller the opportunity to provide such additional documentation necessary to mitigate or eliminate such withholding.

Section 3.6 Allocation of Purchase Price. Buyer and Seller agree that the Purchase Price (as adjusted) and the Assumed Liabilities (plus other relevant items for income Tax purposes) as finally determined pursuant to Section 3.4, shall be allocated among the Acquired Assets for all purposes (the "Purchase Price Allocation") in accordance with the methodology set forth on Section 3.6 of the Disclosure Letter (the "Allocation Methodology"). Buyer and Seller acknowledge and agree that the Allocation Methodology has been prepared in accordance with Code Section 1060 and the Treasury Regulations promulgated thereunder. Within one hundred twenty (120) days following the determination of the Final Working Capital, Buyer shall deliver to Seller the draft Purchase Price Allocation allocating the Purchase Price and all other items treated as consideration for federal income Tax purposes, including any adjustments thereto and the Assumed Liabilities, among the Acquired Assets in accordance with the Allocation Methodology. Within twenty (20) days of Seller's receipt of such draft Purchase Price Allocation, Seller shall provide any objection in writing to Buyer with a written explanation setting forth in reasonable detail the basis for any proposed changes ("Allocation Objection"). If Seller does not provide Buyer with an Allocation Objection within such 20-day period, the Purchase Price Allocation shall become final and binding on the Parties (the "Final Allocation"). If Seller delivers an Allocation Objection to Buyer in accordance with the foregoing within such 20-day period, Buyer and Seller shall negotiate in good faith to resolve any dispute within twenty (20) days after Buyer's receipt of the Allocation Objection. If the Parties are able to reach a mutually satisfactory agreement as to any proposed changes, the Purchase Price Allocation shall be modified to reflect such agreed changes and become the Final Allocation. In the event Buyer and Seller are unable to resolve any dispute within such 20-day period, Buyer and Seller shall jointly request the Accounting Arbitrator to resolve any issue in dispute. The Accounting Arbitrator shall resolve such issues in accordance with the Allocation Methodology and Section 1060 of the Code and the applicable Treasury Regulations thereunder. The fees and expenses payable to the Accounting Arbitrator shall be split equally between Buyer and Seller. The Final Allocation (as finally determined pursuant to this Section 3.6) shall be binding upon the Parties for federal, state, foreign and local Tax purposes. Each Party agrees that it shall file, and shall cause its Affiliates to file, their Tax Returns (and IRS Form 8594) in a manner entirely consistent with the Final Allocation and no Party shall voluntarily take a position inconsistent with the Final Allocation and no Party shall agree to any proposed adjustment to the Final Allocation by any Governmental Entity without first giving Buyer (in the case of an agreement by Seller) or Seller (in the case of an agreement by Buyer) prior written notice; provided, however, that nothing contained herein shall prevent Buyer or Seller from settling any proposed deficiency or adjustment by any Governmental Entity based upon or arising out of the Final Allocation, and neither Buyer nor Seller shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Entity challenging such Final Allocation. If there is an increase or decrease in the consideration within the meaning of Treasury Regulations Sections 1.1060-1(e)(ii)(B) after the Parties have filed the initial IRS Form 8594, the Parties shall revise the Final Allocation in a manner consistent with the Allocation Methodology and Section 1060 of the Code and the applicable Treasury Regulations thereunder and such revised allocation shall become the Final Allocation for purposes of this Agreement. Except as otherwise set forth in this Section 3.6, the Parties agree not to take any position, in connection with any Tax Return, audit or similar Proceeding related to Taxes, that is inconsistent with the Final Allocation (as finally prepared pursuant to this Section 3.6).

Section 3.7 Guarantor. In consideration of Seller's execution and delivery of this Agreement and its agreement to perform the transactions contemplated hereby, and as a material inducement of such execution, delivery and performance, Guarantor hereby guarantees the full, complete and timely performance of Buyer's obligations under, and Buyer's compliance with, Article III of this Agreement only. The liability of Guarantor hereunder is absolute and unconditional, irrespective of any circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor. The liability of Guarantor shall be direct and not conditional or contingent on the pursuit of remedies against Buyer. Seller may, at its option, proceed against Guarantor to collect the liability of Buyer pursuant to Article III herein. The separate guarantee of Guarantor shall be a continuing separate guarantee, and the above consent and waiver of Guarantor shall remain in full force and effect until the liability of Buyer under Article III hereunder is paid in full. It is expressly agreed and understood by the Parties hereto that this guaranty does not extend to the liability of Buyer under Section 2.3, or any other provision of this Agreement other than Article III. This guaranty by Guarantor is only for the amounts due, if any, pursuant to Article III of this Agreement.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF SELLER AND OWNER**

Seller and Owner, jointly and severally, represent and warrant to Buyer as follows:

Section 4.1 Organization; Capitalization.

(a) Section 4.1(a) of the Disclosure Letter contains a complete and accurate list of Seller's jurisdiction of incorporation and any other jurisdiction in which it is qualified to do business as a foreign business entity. Seller is duly incorporated, validly existing and subsisting or in good standing under the laws of each such jurisdiction. Seller has all requisite corporate power and authority to own and lease its properties and assets and to carry on its business as it is now being conducted and is duly qualified or licensed to transact business in each jurisdiction in which the nature of the property owned or leased by it or the conduct of its business requires it to be so qualified.

(b) Section 4.1(b) of the Disclosure Letter sets forth all of the outstanding equity securities of Seller, and each equityholder's respective ownership interests therein. There are no outstanding agreements, subscriptions, commitments, options, warrants, calls or other rights to acquire from Seller, or other obligations or understandings or arrangements of Seller to issue, at any time, or upon the occurrence of any event, to any Person any interest in any security of, or rights in, Seller, whether or not presently issued or outstanding; and there exists no rights of first refusal or any other preemptive right in Seller's Organizational Documents or any other Contract, in each case with respect to any security of, or interest in, Seller.

Section 4.2 Authorization; Enforceability. Seller has all requisite corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Seller of this Agreement and the Ancillary Agreements, and the consummation by Seller of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary actions (including any action of the board of directors and action by the equityholders of Seller), and no other action on the part of Seller, its board of directors or its equityholders is necessary to authorize the execution, delivery and performance by Seller of this Agreement and the Ancillary Agreements and the consummation by Seller of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Seller and, assuming due authorization, execution and delivery by Buyer of this Agreement, this Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the rights of creditors' generally and to general principles of equity, whether considered in a Proceeding at Law or in equity. As of the Closing, each of the Ancillary Agreements has been duly executed and delivered by Seller and, assuming due authorization, execution and delivery by Buyer of the Ancillary Agreements, the Ancillary Agreements, as of the Closing, constitute the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the rights of creditors' generally and to general principles of equity, whether considered in a Proceeding at Law or in equity.

Section 4.3 No Violation. Neither the execution and delivery of this Agreement or the Ancillary Agreements by Seller nor the consummation by Seller of the transactions contemplated hereby or thereby, nor compliance by Seller with any of the terms or provisions of this Agreement or the Ancillary Agreements, conflicts with or violates any provision of the Organizational Documents of Seller, violates any Law, judgment, writ, order or injunction of any Governmental Entity applicable to Seller, the Acquired Assets or the Business, results in (with or without notice or lapse of time or both) any violation, breach or default by Seller of, or gives rise to a right of termination, cancellation, modification or acceleration, or obligation by Seller to pay any amount, under any Contract to which Seller is a party or by which the Business or any Acquired Asset is bound or affected, or results in, or requires the creation of, any Lien on any Acquired Asset.

Section 4.4 Governmental Consents. No consents, Licenses, approvals, orders or exemptions of, or other actions by, or registrations or filings with, any Governmental Entity ("Governmental Consents") are required to be obtained by Seller in connection with the execution, delivery and performance of this Agreement or the Ancillary Agreements, nor the consummation by Seller of the transactions contemplated hereby or thereby.

Section 4.5 Financial Statements; Books and Records. Section 4.5 of the Disclosure Letter contains correct and complete copies of (a) audited annual financial statements for the twelve months ended December 31, 2020 and 2019 and (b) the unaudited financial statements for the nine months ended September 30, 2021 (collectively, the "Financial Statements"). The Financial Statements described in item (b) are referred to as the "Most Recent Financial Statements." Each of the Financial Statements has been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated therein and fairly presents the financial condition and the results of operations and cash flows of Seller as of the respective dates of and for the periods referred to in such Financial Statements. Seller's Books and Records (i) are complete and correct in all material respects, and all transactions related to the Business to which Seller is or has been a party are accurately reflected therein, (ii) reflect all discounts, returns and allowances granted by Seller with respect to the Business for the periods covered thereby, (iii) have been maintained in accordance with customary and sound business practices in Seller's industry, including the maintenance of an adequate system of internal controls, (iv) form the basis of the Financial Statements and (v) reflect the assets, Liabilities, financial position, results of operations and cash flows of the Business.

Section 4.6 Absence of Undisclosed Liabilities. Seller does not have any Liabilities, except for Liabilities reflected in the Most Recent Financial Statements and except for Liabilities incurred since January 1, 2021 in the ordinary course of business consistent with past practice. Neither Buyer nor any of its Affiliates will have any Liability after the Closing for any Excluded Liability or arising out of, resulting from or relating to ownership, operation or use of the Acquired Assets or the operation of the Business prior to the Closing

Section 4.7 Absence of Certain Changes. Since January 1, 2021, Seller has conducted the Business in the ordinary course of business consistent with past practice, there has not been any Material Adverse Effect, and except as required by this Agreement or set forth in Section 4.7 of the Disclosure Letter, Seller has not:

(a) made any change in the accounting methods, principles or practices of the Business, the Tax reporting practices of the Business, or the cash management practices (including with respect to accounts receivable of the Business and Inventory) of the Business;

(b) settled or compromised any Tax Liability of the Business, (ii) made, changed or rescinded any Tax election related to the Business other than elections made on Tax Returns consistent with past practice, (iii) surrendered any right in respect of Taxes of the Business; (iv) consented to any extension or waiver of the limitation period applicable to any claim or assessment in respect of Taxes; or (v) amended any Tax Return.

(c) waived, compromised, canceled, terminated, abandoned, allowed to lapse, assigned or granted any rights in, allowed to expire or released any right under any Assumed Contract or any Business Intellectual Property Right, or made any write-off or write-down of or made any determination to write-off or write-down any assets or properties of the Business;

(d) terminated any Contract related to the Business that would have been a Material Contract if still in effect on the date of this Agreement;

(e) extended, renewed, modified, amended, or agreed to terminate any Assumed Contract, other than in the ordinary course of business consistent with past practice;

(f) made any capital expenditures or commitments related to the Business in excess of an aggregate of \$10,000, or suffered any damages to or destruction of any tangible assets (whether or not covered by insurance) related to the Business, involving amounts that exceed \$10,000 in the aggregate, or experienced any material changes in the amount and scope of insurance coverage related to the Business or the Acquired Assets;

(g) suffered any shortages, cessation or interruption of supplies, Inventory, utilities, or other services required to conduct the Business, or any loss of a material customer of the Business or distribution channel or sales location of the Business;

(h) incurred any Indebtedness or refinanced any existing Indebtedness, or mortgaged, pledged or subjected to any Lien, any of the Acquired Assets;

(i) incurred, assumed or paid any Liabilities of the Business, other than in the ordinary course of business consistent with past practice, settled any dispute, Proceeding or Liability pending or threatened against Seller in connection with the Business or any of the Acquired Assets, or failed to pay or discharge when due any accounts payable or other Liabilities related to the Business;

(j) sold, assigned, transferred, conveyed, leased, pledged, encumbered or otherwise disposed of any assets or properties of the Business, except for the sale of Inventory in the ordinary course of business consistent with past practice;

(k) acquired any properties or assets for the Business or entered into any other transaction, other than in the ordinary course of business consistent with past practice, or effected any merger, consolidation, recapitalization, redemption, reclassification, dividend, distribution, split or like change in its capitalization;

(l) made any payment of any nature to any Employee, other than salary, bonuses or fees and reimbursement of expenses payable in the ordinary course of business consistent with past practice or other than pursuant to an existing written Contract, or any material change in the rate of compensation, commission, bonus or other remuneration payable, or agreed to pay, any bonus, incentive, retention or other compensation, or any change in control payment, to or in respect of any Employee, or entered into any new, or amended any existing, Employment Arrangement or Benefit Plan;

- (m) experienced any labor dispute with, or claim of unfair labor practice by, any Employee;
- (n) taken any actions that would materially change Inventory amounts in a manner inconsistent with past practice;
- (o) offered discounts or incentives for early payment of accounts receivable of the Business other than consistent with past practice or paid accounts payable of the Business other than consistent with past practice;
- (p) incurred, refinanced or guaranteed any Indebtedness;
- (q) settled or compromised any material litigation related to the Business, or waived, released or assigned any material claims related to the Business;
- (r) amended or modified any of its Organizational Documents;
- (s) (i) adopted a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization or (ii) entered into any Contract providing for acceleration of payment or performance as a result of a change of control;
- (t) experienced any actual or suspected breach of or unauthorized access to or disclosure of any (i) information technology systems owned or controlled by Seller; or (ii) Personal Data in Seller's possession, custody, or control or in the control of a third party for or on behalf of Seller; or
- (u) agreed to or obligated itself to do any of the foregoing.

Section 4.8 Title to Assets; Sufficiency; Personal Property.

(a) Seller has good, valid and marketable title to, or a valid leasehold or license interest in, all of the Acquired Assets, free and clear of all Liens.

(b) The Acquired Assets constitute all of the assets, rights and properties necessary and sufficient for Buyer to operate the Business after the Effective Time in the same manner as conducted by Seller in the twelve (12) months prior to the date hereof. All of the tangible Acquired Assets are free from defects or other deficiency (whether in design or manufacture); usable in the regular and ordinary course of business consistent with past practice; in conformity with all applicable Laws and Licenses relating to their manufacture, use and operation; in good operating condition and repair, ordinary wear and tear excepted; and adequate for the purposes for which such Acquired Assets were being used by Seller.

Section 4.9 Taxes.

(a) All Tax Returns required to have been filed by or with respect to Seller or with respect to any of the Acquired Assets or operations of the Business have been duly and timely filed and all such Tax Returns are correct and complete. All Taxes owed by Seller, whether or not shown or required to be shown on such Tax Returns, have been paid and there is no Liability for any Taxes due and payable in connection with any such Tax Returns. Seller currently is not the beneficiary of any extension of time within which to file any Tax Return. There are no existing Liens for Taxes upon any of the Acquired Assets, except for Liens for Taxes which are not yet due and payable. All applicable sales and use Taxes related to the Business or required to be collected by Seller, to the extent due, were paid by Seller when due.

(b) There is no Proceeding, assessment, adjustment, audit or claim now pending or, to the Knowledge of Seller, threatened, against Seller or the Acquired Assets in respect of any Taxes. All deficiencies asserted, or assessments in respect to Taxes made against Seller have been fully paid. Seller has not waived (or is not subject to a waiver of) any statute of limitations in respect to Taxes or agreed to (or is subject to) any extension of the time for assessment of any Taxes relating to the income, revenues, properties or operations of Seller for any period, and all Taxes which Seller has been required by Law to withhold and collect with respect to the Business have been duly withheld and collected, and have been timely paid over to the proper Governmental Entity to the extent due and payable.

(c) There is not and there will not be any Liability for Taxes arising out of, or attributable to, or affecting the Acquired Assets or the Business for any period prior to the Effective Time, or attributable to the conduct of the operations of, or elections made by, Seller at any time for which Buyer will have any Liability at any time for payment or otherwise. There does not exist and will not exist by virtue of the transactions contemplated by this Agreement any Liability for Taxes (except for Transfer Taxes, if any, incident to the consummation of the transactions contemplated hereby, which Taxes are governed by Section 6.7) which may be asserted by any Governmental Entity against the Acquired Assets or the operations of the Business and no Lien for Taxes has or will attach to the Acquired Assets or the operations of the Business.

(d) None of the Acquired Assets is tax exempt use property under Code Section 168(h). None of the Acquired Assets is property that Seller is required to treat as being owned by any other Person pursuant to the safe harbor lease provision of former Code Section 168(f)(8).

(e) Seller is not a "foreign person" within the meaning of Code Section 1445.

(f) No claim has ever been made by a Governmental Entity in a jurisdiction in which Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction or that it may have to file Tax Returns. Seller has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code. None of the Assumed Liabilities is an obligation to make a payment that is not deductible under Code Section 280G.

(g) Seller has not participated in any "reportable transaction" as defined in Section 6707A of the Code or Treasury Regulation Section 1.6011-4 (or any predecessor provision).

(h) Seller is not a party to any Tax allocation or sharing agreement. Seller (A) has not been a member of an affiliated group that filed consolidated federal or state income Tax Returns and (B) has no Liability for the Taxes of any Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract, or otherwise.

(i) Seller has made available to Buyer true and complete copies of all Tax Returns of Seller for all Tax periods beginning on or after January 1, 2017. Seller has made available to Buyer true and complete copies of any examination reports received by Seller, and statements of deficiencies assessed against or agreed to by Seller, since January 1, 2017.

(j) The unpaid Taxes of Seller (A) did not, as of the date of the Financial Statements, exceed the reserve for Tax Liability (rather than any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Financial Statements (rather than in any notes thereto) and (B) do not exceed that reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of Seller in filing its Tax Returns.

(k) No private letter rulings, technical advice memoranda or similar agreement or rulings have been requested, entered into or issued by any taxing authority with respect to Seller.

(l) Seller is in compliance with all state unclaimed property Laws and has turned over to the appropriate states all unclaimed property in accordance with relevant state unclaimed property Laws and the priority rules with respect thereto.

(m) Within the past ten (10) years, Seller has not been a distributing corporation or a controlled corporation in a transaction intended to qualify under Section 355 of the Code.

(n) Seller has not (i) elected to defer the payment of any “applicable employment taxes” (as defined in Section 2302(d)(1) of the Coronavirus Aid, Relief and Economic Security Act (the “CARES Act”)) pursuant to Section 2302 of the CARES Act or (ii) claimed any “employee retention credit” pursuant to Section 2301 of the CARES Act.

(o) Seller has been a validly electing S corporation within the meaning of Code Section 1361 and Section 1362 at all times during its existence and Seller will be an S corporation up to and including the Closing Date.

(p) Seller has no potential liability for any Tax under Code Section 1374. Seller has not, in the past 5 years, (A) acquired assets from another corporation in a transaction in which Seller’s Tax basis for the acquired assets was determined, in whole or in part, by reference to the Tax basis of the acquired assets (or any other property) in the hands of the transferor or (B) acquired the stock of any corporation that is a qualified subchapter S subsidiary.

For purposes of this Section 4.9, Seller shall be deemed to include any predecessor of Seller, any Person which merged or was liquidated with and into Seller or any Person from which Seller incurs a Liability for Taxes as a result of transferee Liability.

Section 4.10 Real Property.

(a) Seller does not own any real property used in the Business. Section 4.10(a) of the Disclosure Letter contains a correct and complete list of all real property leased (whether as landlord or tenant) or occupied by Seller in connection with the Business, the lessor or lessee of such property and the term of the lease for such property (the "Leased Real Property"). Neither the whole nor any portion of the Leased Real Property has been condemned, requisitioned, expropriated or otherwise taken by any Governmental Entity and, to the Knowledge of Seller, no such condemnation, requisition, expropriation or taking is threatened or contemplated. There are no pending or, to the Knowledge of Seller, threatened changes to any applicable codes or zoning requirements affecting or against all, any portion of or adjacent to the Leased Real Property. There are no public improvements which have been ordered, commenced or completed and for which an assessment may be levied against the Leased Real Property, or planned improvements which may result in any assessment against the Leased Real Property, in either case which would be the obligation of Seller. There is no Lien applicable to the Leased Real Property that would impair the current use or the occupancy of such Leased Real Property by Buyer. All buildings, structures, fixtures, and appurtenances comprising part of the Leased Real Property were constructed or installed in accordance with all Laws, are structurally sound and in good condition and repair (normal wear and tear excepted), and do not encroach on any property owned by any other Person, and there are no violations of any Law affecting any portion of the Leased Real Property, including violations of any Laws regulating building, zoning, fire, safety, environmental, traffic, flood control or health, and no notice of any such violation has been issued by any Governmental Entity.

(b) All improvements to the Leased Real Property (including mechanical, electrical and plumbing systems serving such improvements) are in good condition and repair (normal wear and tear excepted), and, to the Knowledge of Seller, such improvements are free from structural defects. There are no continuing maintenance, repair or capital improvement obligations of Seller with respect to the Leased Real Property. There are no improvements or additions that are required to be removed by the lessee upon termination of any lease or sublease relating to the Leased Real Property and there are no damages, conditions or repairs that the lessee would be obligated to repair, restore or remediate upon termination of such lease or sublease. The Leased Real Property is supplied with utilities and other services adequate for the operation of such Leased Real Property, including adequate water, storm and sanitary sewer, gas, electric, cable and telephone facilities. Seller has obtained all agreements or other rights from any other Person necessary to permit the lawful use and operation of the facilities located on the Leased Real Property or any driveways, roads and other means of egress and ingress to and from the Leased Real Property, and each such agreement or other right is in full force and effect. There is no pending or, to the Knowledge of Seller, threatened Proceeding which could result in the modification or cancellation of such agreements or rights.

(c) There are no outstanding options, rights of first offer or rights of first refusal to purchase or lease the Leased Real Property or any portion thereof or interest therein. The Leased Real Property is not shared by Seller, on the one hand, and any other Person, on the other hand, or used for any business other than the Business. Seller has the right to quiet enjoyment of all of the Leased Real Property. There has been no disturbance of, or challenge to, Seller's quiet possession of any Leased Real Property for the full term of any applicable lease and any renewal option related thereto.

(d) There is no pending or, to the Knowledge of Seller, threatened Proceeding against or affecting the Leased Real Property.

(e) (i) No portion of the Leased Real Property is located within a flood hazard area; (ii) no portion of the Leased Real Property constitutes wetlands; and (iii) no contaminants or other impurities which would violate any standards set by any Governmental Entities are present at the Leased Real Property.

(f) No impact fees have been imposed, assessed or levied against the Leased Real Property; no impact fees are contemplated by any Governmental Entities to be imposed, assessed or levied against the Leased Real Property and any impact fees imposed, assessed or levied upon the Leased Real Property have been paid in full.

Section 4.11 Contracts.

(a) Section 4.11(a) of the Disclosure Letter sets forth a correct and complete list of the following Contracts related to the Business or the Acquired Assets to which Seller is a party or under which Seller has continuing Liabilities and is currently in effect (each, a "Material Contract"):

(i) all Contracts involving the customers and vendors which are, or should have been, listed on Section 4.23 of the Disclosure Letter;

(ii) all leases, subleases and license agreements relating to the Leased Real Property;

(iii) all Contracts with any distributors, manufacturers' agents or selling agents, or pursuant to which Seller sells or distributes the Products or pays a commission to a Person with respect to the sale of the Products;

(iv) leases of any Personal Property;

(v) Contracts granting to any Person an option or a right of first refusal, first-offer or similar preferential right to purchase or acquire any Acquired Assets;

(vi) Contracts evidencing partnerships, strategic alliances or joint ventures and all other Contracts providing for the sharing of any profits or expenses;

(vii) Contracts involving the payment or receipt by Seller of royalties;

(viii) Contracts providing for the purchase of all of the requirements of Seller for a particular product or service from a vendor;

(ix) Contracts that provide any customer of Seller with pricing, discounts or benefits that change based on the pricing, discounts or benefits offered to other customers of Seller, including any agreement containing "most favored nation" provisions;

(x) warranty Contracts with respect to the sale of Products which contain terms and conditions that differ in any material respect from standard warranty terms and conditions provided to customers of Seller;

(xi) Contracts that limit, impede, interfere with or restrict or purport to limit, impede, interfere with or restrict, the ability of Seller or any of its Affiliates to compete in or enter into or conduct any business or in any geographic area or to solicit for employment, hire or employ any Person;

(xii) any stock purchase agreement, asset purchase agreement, merger agreement or other acquisition or divestiture agreement to which Seller is a party or is otherwise bound and entered into by Seller during the past five (5) years, or any such agreement that contains any indemnification provision or obligation that is currently in effect;

(xiii) any Contracts relating to the marketing or advertising of Seller's Products or Services;

(xiv) Contracts (other than Employment Arrangements) between Seller and any current or former employee, officer, director or equityholder (or group of equityholders) of Seller;

(xv) any Licenses-In, Licenses-Out, or other Contracts pertaining or related to the Business Intellectual Property Rights or Seller's use thereof including coexistence agreements, consent agreements, settlement agreements, joint development agreement, assignments concerning the Business Intellectual Property Rights, and co-branding or co-marketing agreements; and

(xvi) all other Contracts of Seller material to the Business or relating to the Acquired Assets.

(b) Each Assumed Contract is in full force and effect and is a legal, valid and binding obligation of Seller enforceable in accordance with its terms (and will continue to be in full force and effect following the consummation of the transactions contemplated hereby) and, to the Knowledge of Seller, each other party to such Assumed Contract (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the rights of creditors generally and to general principles of equity, whether considered in a Proceeding at Law or in equity), and there is no existing default or breach by Seller under any such Assumed Contract (or event or condition that, with or without notice or lapse of time or both, could constitute a default or breach) and, to the Knowledge of Seller, there is no such default or breach (or event or condition that, with or without notice or lapse of time or both, could constitute a default or breach) with respect to any other party to any such Assumed Contract. To the Knowledge of Seller, there has not been any notice or threat to terminate any Assumed Contract. No event has occurred which (with or without notice or lapse of time or both) constitutes a breach or default in any material respect of, or permits termination, modification or acceleration of payment or requires any payment under, any Assumed Contract. Correct and complete copies of each (i) Material Contract, (ii) each Assumed Contract, (iii) all material correspondence related to the Leased Real Property, and (iv) all material documents relating to the Acquired Assets, all Licenses, all environmental assessment reports (such as Phase I and Phase II reports) and any other environmental studies in Seller's possession relating to the Leased Real Property or any Acquired Assets have been made available to Buyer.

Section 4.12 Inventory. Except as set forth on Section 4.12 of the Disclosure Letter, all of the Inventory was manufactured or acquired by Seller in the ordinary course of business consistent with past practice. Except as set forth on Section 4.12 of the Disclosure Letter, all items included in Inventory consist of new and unused items of a quality, quantity and condition useable and saleable in the ordinary course of Business, are not slow moving, damaged, discontinued, stale or obsolete and are valued at the lower of cost or market value. The quantities of each of the categories of Inventory (raw materials, work in process and finished goods) are at a level normal and adequate for the continuation of the Business in the ordinary course consistent with past practice. Seller is not in the possession of any Inventory not owned by Seller, including goods already sold. None of the Inventory has been consigned to any Person.

Section 4.13 Accounts Receivable. The accounts receivable comprising a part of the Acquired Assets represent valid obligations that arose from bona fide transactions in the ordinary course of business consistent with past practice and are collectible in full, net of Seller's reserves reflected in the Final Working Capital. None of such accounts receivable is subject to any claim of offset or recoupment or counterclaim, and to the Knowledge of Seller, there are no specific facts that would be likely to give rise to any such claim. The reserves shown on the Most Recent Financial Statements and the accounting records of Seller are adequate and calculated consistent with past practice and GAAP.

Section 4.14 Insurance. Section 4.14 of the Disclosure Letter sets forth a correct and complete list of all insurance policies maintained by or on behalf of Seller relating to the Acquired Assets or the Business, indicating the insured, insurer, beneficiary of the policy, amount of coverage, expiration date, type of insurance, policy number and all insurance claims made thereunder since January 1, 2018. All such insurance policies are valid and binding and in full force and effect. Except as set forth on Section 4.14 of the Disclosure Letter, there is no claim pending or, to the Knowledge of Seller, threatened or existing facts which are reasonably likely to result in a claim under any such policy, and Seller has not made any claim against an insurance policy as to which the insurer is denying coverage or defending the claim under a reservation of rights. Seller has not received any written notice of a material increase in premiums with respect to, or cancellation or non-renewal of, any of its insurance policies, except for general increases in rates to which similarly situated companies are subject. Seller has not been denied insurance coverage for which it has applied.

Section 4.15 Consents. Section 4.15 of the Disclosure Letter sets forth each action, consent, approval, notification, waiver, authorization, order or filing (each, a "Consent") under any License, Assumed Contract or other Contract required in connection with the execution and delivery by Seller of this Agreement or the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby.

Section 4.16 Legal Proceedings. There is no Proceeding pending or, to the Knowledge of Seller, threatened, nor since January 1, 2018 has there been any such Proceeding, affecting or involving the Business or the Acquired Assets before any Governmental Entity, nor is there any basis for any such Proceeding. There are no judgments, orders, decrees, awards or writs entered by or pending before any Governmental Entity against Seller which affect or relate to the Business or by which any of the Acquired Assets are bound or affected.

Section 4.17 Compliance with Laws; Licenses.

(a) Seller is, and has been since January 1, 2018, in compliance with all applicable Laws in the conduct of the Business and the use of the Acquired Assets.

(b) Seller holds all Licenses necessary or advisable for the lawful conduct of the Business, and all such Licenses are listed on Section 4.17(b) of the Disclosure Letter. All such Licenses are in good standing and in full force and effect. Seller is in compliance with the terms of such Licenses, and no Proceeding is pending or, to the Knowledge of Seller, threatened seeking the revocation or limitation of any such License. No condition, fact or circumstance exists that would result in, or would be likely to result in, the revocation, limitation, nonrenewal or denial of any License necessary or advisable for the lawful conduct of the Business.

Section 4.18 Employment Benefits.

(a) Section 4.18(a) of the Disclosure Letter sets forth each bonus, commission, deferred compensation, severance pay, salary continuation, benefits continuation, retention agreement, retention plan, change of control, retention benefit, pension, profit sharing, retirement, insurance, incentive compensation, stock option, tuition, tuition reimbursement, dependent care assistance, legal assistance, fringe benefit (cash or non-cash), disability, medical, health, dental, hearing, death, life, death benefit, other retiree benefits, accidental death or dismemberment, tuition reimbursement, vacation, holiday, sick leave, insurance, workers' compensation, welfare plan, supplemental unemployment or other fringe benefit plan, fund, program, policy, arrangement or practice, or any other "employee benefit plan," as defined in Section 3(3) of ERISA (determined without regard to whether such plan is subject to ERISA) or is tax qualified under the Code, , and any "nonqualified deferred compensation plan" as defined in Section 409A of the Code that is maintained, sponsored, or contributed or required to be contributed to by Seller or any of its Affiliates or ERISA Affiliates or for which they could be liable for (directly or indirectly) with respect to any of their respective current or former employees, officers, directors or consultants employed or providing services in the United States or the dependents or beneficiaries thereof (collectively, the "Benefit Plans").

(b) Except as set forth on Section 4.18(b) of the Disclosure Letter, none of the Benefit Plans are, and neither Seller nor any of its Affiliates or ERISA Affiliates has ever sponsored, maintained, contributed to or had an obligation to contribute to, or incurred any other obligation or Liability or been secondarily liable for with respect to a (i) plan subject to Title IV of ERISA or Sections 412 or 430 of the Code or Title I, Subtitle B, Part 3 of ERISA (including a Multiemployer Plan (as defined in Sections 3(37) and 4001(a)(3) of ERISA)), (ii) a "nonqualified deferred compensation plan" as defined by Section 409A of the Code, (iii) a welfare benefit plan which is funded in whole or in part through a welfare benefit fund, as defined in Section 419 of the Code, or (iv) a voluntary employee's beneficiary association under Section 501(c)(9) of the Code, a "multiple employer plan" within the meaning of Section 413(c) of the Code or a "multiple employer welfare arrangement" as defined in Section 3(40) of ERISA. Neither Seller nor any of its Affiliates or ERISA Affiliates has any agreement or commitment to create any additional Benefit Plan or Employment Arrangement, or to modify or change any existing Benefit Plan or Employment Arrangement except with respect to changes required by Law or a written Contract in existence on the date hereof that has been made available to Buyer. Neither Buyer nor any of its Affiliates will incur any Liability with respect to any Benefit Plan which is sponsored, maintained or contributed to by Seller or any ERISA Affiliate for the benefit of any current or former employee of Seller or any ERISA Affiliate (and any eligible dependent and beneficiary thereof). Neither Buyer nor any of its Affiliates will have any Liability with respect to any Benefit Plan under any theory of successor employer, alter ego, joint employer, or any other theory of affiliation recognized under ERISA or other applicable Law.

(c) Neither Seller nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title IV of ERISA or related provisions of the Code relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; (iii) engaged in a complete withdrawal (as defined in ERISA §4203) or a partial withdrawal (as defined in ERISA §4205) from any Benefit Plan; or (iv) engaged in any transaction which would give rise to Liability under Section 4069 or Section 4212(c) of ERISA. Neither Buyer nor any of its Affiliates will have (i) an obligation to make contribution(s) to any multiemployer plan (as defined in Section 3(37) of ERISA), or (ii) any Withdrawal Liability (whether imposed and not yet paid or calculated assuming a complete or partial withdrawal of Seller or any ERISA Affiliate as of such date not yet imposed).

(d) Seller has made available to Buyer correct and complete copies of all material documents which comprise the most current version of each Benefit Plan and Employment Arrangement (or, if there is no such written document, an accurate and complete written description of each such Benefit Plan or Employment Arrangement), including any related trust agreements, insurance contracts, or other funding or investment agreements, service provider agreements or investment management agreements, and any amendments thereto, any tax qualified retirement plan of Seller, to the extent applicable, each Benefit Plan's current summary plan description and all material modifications thereto, the three most recent annual reports on Form 5500 series filed in respect of such Benefit Plan (including all schedules and attachments), and evidence of satisfaction of nondiscrimination testing for the past three plan years, with respect to any Benefit Plan intended to be "qualified" within the meaning of Section 401(a) of the Code, the most recent determination, advisory or opinion letter issued by the United States Internal Revenue Service ("IRS"), Seller's employee manuals and handbooks and employment policy statements, and any correspondence with a Governmental Entity, including the IRS, the U.S. Department of Labor and the Pension Benefit Guaranty Corporation, regarding any controversy with respect to any Benefit Plan.

(e) Seller and each of its Affiliates and ERISA Affiliates have performed and complied with all of their respective obligations under and with respect to the Benefit Plans and Employment Arrangements and each of the Benefit Plans and Employment Arrangements has, at all times, in form, operation and administration (including all applicable reporting and disclosure requirements) complied with its terms, and, where applicable, the requirements of the Code, ERISA and all other applicable Laws. Each Benefit Plan which is intended to be "qualified" within the meaning of Section 401(a) of the Code is identified as such in Section 4.18(a) of the Disclosure Letter, has been determined by the IRS to be so qualified and nothing has occurred which would adversely affect such qualified status. Each of the Benefit Plans and Employment Arrangements is subject only to the federal or state Laws of the United States or a political subdivision thereof.

(f) All Benefit Plans which are group health plans (as such term is defined in Section 5000(b)(1) of the Code) have been operated in compliance with the continuation coverage requirements of Section 4980B of the Code (and any predecessor provisions) and Part 6 of Title I of ERISA (“COBRA”), the provisions of Law enacted by the Health Insurance Portability and Accountability Act of 1996, the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 and any similar state Law. Neither Seller nor any of its Affiliates or ERISA Affiliates has any obligation to provide and none of the Benefit Plans or Employment Arrangements provides health benefits or other non-pension insurance benefits to retired or other former employees, officers, directors or independent contractors (or their beneficiaries or dependents), except as specifically required by COBRA or any similar state Law.

(g) Neither Seller nor any of its Affiliates or ERISA Affiliates or other “disqualified person” or “party in interest,” as defined in Section 4975 of the Code and Section 3(14) of ERISA, respectively, has engaged in any “prohibited transaction,” as defined in Section 4975 of the Code or Section 406 of ERISA, with respect to any Benefit Plan, nor has Seller or any of its Affiliates engaged in any act or omission with respect to any Benefit Plan or otherwise which would subject Seller or any of its Affiliates (or any officer, director, employee or independent contractor thereof) to any material penalty or Tax under Section 502(i) of ERISA or Section 4975 of the Code or material Liability for breach of fiduciary responsibilities under ERISA. Neither Seller nor any of its Affiliates or ERISA Affiliates has agreed to indemnify or guarantee the performance of any Person with respect to any Benefit Plan or Employment Arrangement. The assets of Seller and its ERISA Affiliates are not subject to any Lien imposed under Sections 412 or 430 of the Code or Sections 302 or 303 of ERISA by reason of a failure of Seller, any subsidiary, or any ERISA Affiliate to make timely installments or other payments required under Sections 412 or 430 or Sections 302 or 303 of ERISA.

(h) With respect to any Benefit Plan that is subject to Section 409A of the Code, each such plan complies in form and operation with Section 409A of the Code, and no such Benefit Plan will result in any participant incurring gross income inclusion, income acceleration, additional taxes or penalties pursuant to Section 409A of the Code.

Section 4.19 Labor Matters.

(a) Section 4.19(a) of the Disclosure Letter sets forth, with respect to each current employee of Seller involved in the Business (including any such employee who is on a leave of absence of any nature, paid or unpaid, authorized or unauthorized) (the “Employees”), the name of such Employee, the date as of which such Employee was originally hired by Seller, whether the Employee is on an active or inactive status; such Employee’s title; such Employee’s annualized compensation as of the date of this Agreement, including base salary, vacation and/or paid time off accrual amounts, bonus and/or commission potential, severance pay potential, and any other compensation forms; whether such Employee is not fully available to perform work because of a disability or other leave and, if applicable, the basis of such disability or leave and the anticipated date of return to full service; each current Benefit Plan in which such Employee participates or is eligible to participate; and any License that is held by such Employee and used in connection with the Business. Section 4.19(a) of the Disclosure Letter also sets forth each employment, non-compete, restrictive covenant, severance, change of control, termination or indemnification Contract between Seller or any of its Affiliates or ERISA Affiliates and any of their current or former employees, officers, directors, equityholders or independent contractors employed by or providing services to Seller in connection with the Business (collectively, the “Employment Arrangements”).

(b) Any Persons now or heretofore engaged by Seller to perform services for Seller in connection with the Business and who are or were classified or treated as “independent contractors,” rather than employees, have been properly classified as independent contractors, are not entitled to any compensation or benefits to which regular, full-time employees are or were at the relevant time entitled, and were and have been engaged in accordance with all applicable Laws, and received the proper tax treatment for compensation received by them.

(c) Except as set forth in Section 4.19(c) of the Disclosure Letter, the employment of each of the Employees is terminable at will and Seller has no obligation to provide any particular form or period of notice prior to terminating the employment of any of the Employees. Seller has not, and to the Knowledge of Seller, no other Person has, entered into any Contract that obligates or purports to obligate Buyer to make an offer of employment to any present or former Employee, independent operator or consultant of Seller or promised or otherwise provided any assurances (contingent or other) to any present or former Employee, independent operator or consultant of Seller of any terms or conditions of employment with Buyer following the Effective Time. To the Knowledge of Seller, none of the Employees intends to terminate his or her employment with Seller. Seller is not nor ever has been engaged in any material dispute or litigation with any of such Employees.

(d) Except as set forth in Section 4.19(d) of the Disclosure Letter, (i) Seller is not presently, nor has Seller been in the past, a party to or bound by any union contract, collective bargaining agreement or similar contract, (ii) there is not now pending and has never been any slowdown, work stoppage, labor dispute or employee union organizing activity, or any similar activity or dispute, affecting Seller or any of its Employees, and (iii) Seller does not know of any activities or Proceedings, pending or threatened, of any labor union attempting to organize any of its Employees. Seller is not engaged nor ever has been engaged in any unfair labor practice of any nature that, if adversely determined, would result in any material Liability to Seller.

(e) The employees of Seller have been, and currently are, properly classified under the Fair Labor Standards Act of 1938 and under any similar Law of any state applicable to such employees. Seller is not delinquent with respect to, nor has it failed to pay, any of its employees, operators or consultants for any wages due, including overtime, meal breaks or waiting time penalties, salaries, commissions, accrued and unused vacation to which they would be entitled under applicable Law, if any, bonuses, benefits or other compensation, of any nature whatsoever, for any services performed by them or amounts required to be reimbursed to such individuals. Seller is not delinquent with respect to or liable for any payment to any trust or other fund or to any Governmental Entity, with respect to unemployment compensation benefits, social security or other benefits or obligations for employees.

(f) Seller is in compliance with all applicable Laws, Employment Arrangements, Benefit Plans, Contracts, terms and conditions of employment, immigration matters, labor matters, and wages and hours, in each case, with respect to its employees. Seller, and to the Knowledge of Seller, each of its employees, is in compliance with all applicable visa and work permit requirements.

(g) Neither Seller nor any of its Affiliates is party to a settlement agreement with a current or former director, officer, manager, employee or independent contractor with respect to the Business that involves allegations relating to sexual harassment by such director, officer, manager, employee or independent contractor of Seller or any of its Affiliates. To the Knowledge of Seller, in the last five (5) years, no allegations of sexual harassment have been made against a director, officer, manager, employee or independent contractor of Seller or any of its Affiliates with respect to the Business.

Section 4.20 Environmental Matters.

(a) Seller is, and has been, in compliance with all Environmental Laws with respect to the Business and the Acquired Assets. Seller holds all Licenses required pursuant to Environmental Laws and necessary to own, lease or operate the Acquired Assets and to carry on the Business as now conducted. There has not occurred any default under any such License. Seller has not received any written notice from a Governmental Entity that it is (i) in violation of any Environmental Laws or (ii) subject to any Liability arising under Environmental Laws or any material investigation, remediation or corrective obligation, relating to Seller, the Business or the Acquired Assets.

(b) There is no civil, criminal or administrative demand, notice of violation or Proceeding with respect to Hazardous Materials or Environmental Laws that is pending or, to the Knowledge of Seller, threatened against Seller with respect to the Business, the Leased Real Property or the Acquired Assets.

(c) With regard to the Leased Real Property, the Business or the Acquired Assets, there are no events, conditions or circumstances which would interfere with, restrict or prevent, or would be reasonably likely to interfere with, restrict or prevent operation of or use of the Leased Real Property or the Acquired Assets as currently conducted, or which would prevent compliance with Environmental Laws, or which otherwise would be reasonably likely to form the basis of any Proceeding or notice of violation, based on or related to the Release or threatened Release into the environment of any Hazardous Materials or any violation of any Environmental Law. Without in any way limiting the foregoing, Seller has not, nor, to the Knowledge of Seller, has any other Person Released any Hazardous Materials into the environment in violation of Environmental Laws or in quantities that would give rise to Liability on the part of Seller or require cleanup by Seller under Environmental Laws with respect to the Business, the Leased Real Property or any Acquired Assets.

Section 4.21 Intellectual Property; Privacy.

(a) Section 4.21(a) of the Disclosure Letter contains a complete and accurate list of all (i) registrations or issuances of any Business Intellectual Property Rights owned or purported to be owned by Seller, (ii) pending applications for registration or issuance of any Business Intellectual Property Rights owned or purported to be owned by Seller, (iii) Contracts under which Seller has granted or licensed to any third party any Business Intellectual Property Rights (a "Licenses-Out"), (iv) Contracts under which a third party has granted or licensed to Seller any Business Intellectual Property Rights ("Licenses-In"), (v) proprietary Software owned or purported to be owned by Seller, (vi) Trade Secrets owned or purported to be owned by Seller, (vii) unregistered Marks owned or purported to be owned by Seller, and (viii) Domain Names registered in the name of Seller or for which Seller is the registrant, in each case and as applicable, categorized by type (e.g., Patents, Marks, Domain Names, Copyrights, Contracts, Trade Secrets and Software). Correct and complete copies of all such registrations, applications and Contracts, in each case, as amended, or otherwise modified and in effect, have been made available to Buyer. The applications, registrations, and issuances of any Business Intellectual Property Rights identified in subsection (i) and (ii) above and all associated Business Intellectual Property Rights (the "Registered Business Intellectual Property"), as well as all other Business Intellectual Property Rights owned or purported to be owned by Seller (the "Owned Business Intellectual Property") are active, subsisting, and enforceable. None of the Owned Business Intellectual Property, nor to Seller's Knowledge any other Business Intellectual Property Rights, has expired or been cancelled, abandoned, or otherwise terminated. All required filings and fees related to the Registered Business Intellectual Property have been timely submitted and paid to the appropriate Governmental Entities. No act or omission has occurred or is occurring that would reasonably be expected to result in or cause the abandonment, cancellation, loss, lapse, or expiration of any of the Owned Business Intellectual Property or, to Seller's Knowledge, the other Business Intellectual Property Rights.

(b) Seller owns exclusively and beneficially, free and clear of all Liens, all rights, title, and interests in and to the Owned Business Intellectual Property and has the valid right to use, free and clear of all Liens, all of the other Business Intellectual Property Rights, including the Intellectual Property Rights associated with the Intellectual Property listed on Section 4.21(a) of the Disclosure Letter, and no Business Intellectual Property Rights are in the control of any Person other than Seller. Except as set forth on Section 4.21(b)(i) of the Disclosure Letter, Seller has the right to use, sell, license, dispose of and freely assign, and has the right to bring actions for the infringement of, all Business Intellectual Property Rights, without restriction or limitation (other than pursuant to applicable Law). Seller is not under any obligation to pay any royalty, license fee or other similar consideration to any Person or to obtain any approval or consent for use of any Business Intellectual Property Rights (except, in the case of licensed Business Intellectual Property Rights, as set forth in the license therefor and which license is referred to in Section 4.21(b)(ii) of the Disclosure Letter).

(c) The Business Intellectual Property Rights comprise all of the Intellectual Property Rights material to and necessary for the operation of the Business (including the manufacture, advertising, marketing, promotion, offering for sale, sale, and distribution of Products) in the manner operated in the prior 12 months. All Products made, manufactured, used, advertised, offered for sale or sold under any Patents or Copyrights or in connection with any Marks that are part of the Acquired Assets are properly marked with patent notices, trademark notices, and/or copyright notices. All Marks shown or used on Products are owned by Seller or lawfully licensed for Seller's use in the manner so used by Seller.

(d) The Business Intellectual Property Rights and Seller's operation of the Business since January 1, 2018 have not and do not infringe upon, misappropriate, dilute, unfairly compete with, or otherwise violate or conflict with the Intellectual Property Rights of any Person or would give or have given rise to an obligation to render an accounting to any Person as a result of co-authorship, co-ownership, or co-invention, nor does their exist any valid basis for any such claim or action. After the Effective Time, Buyer will be able to continue to exclusively own, use, license or sub-license all Business Intellectual Property Rights in the same manner as Seller prior to the Effective Time and Buyer's ownership, use, licensing or sub-licensing of such Business Intellectual Property Rights will not infringe, misappropriate or otherwise violate or conflict with any Intellectual Property Rights of any Person or unfairly compete with any Person. Seller is not aware of any infringement, violation, misappropriation, or unlicensed use of any of the Business Intellectual Property Rights or of any claim of unfair competition against the Business. Seller has not received notice of any adversely held Intellectual Property Right of any other Person alleging or threatening to assert that Seller's use of any of the Business Intellectual Property Rights infringes upon, misappropriates, dilutes, violates or is in conflict with any Intellectual Property Rights or other proprietary rights of any Person. There is no basis for any charge, claim, suit or action asserting any such infringement, misappropriation, dilution, or violation, or asserting that Seller does not have the legal right to use any Business Intellectual Property Rights or that the Business unfairly competes with any Person. No other Person is, to Seller's Knowledge, currently infringing upon, misappropriating, diluting, or violating any right of Seller with respect to the Business Intellectual Property Rights. No Business Intellectual Property Right is subject to any action, Contract (other than the Assumed Contracts), or outstanding order or settlement agreement or stipulation that restricts in any material manner the use, provision, transfer, assignment or licensing thereof by Seller (or, after the Effective Time, Buyer) or materially affects the validity, use or enforceability of such Business Intellectual Property Right.

(e) All Registered Business Intellectual Property has been duly filed, registered or issued, as the case may be, with the appropriate Governmental Entity and have been properly maintained and renewed in accordance with all applicable Laws. Seller has used and uses its best efforts to diligently protect its rights in the Business Intellectual Property Rights, including the confidential nature of all Trade Secrets (including any Trade Secrets of third parties to whom Seller owed or owes a duty of confidentiality), and there have been no acts or omissions by Seller, the result of which would be to compromise the rights of Seller (or Buyer after the Effective Time) to apply for or enforce appropriate legal protection afforded by such Business Intellectual Property Rights or that would result in the abandonment, dedication to the public domain, or loss of any right sin or to any Business Intellectual Property Rights.

(f) All third party Software used in connection with the Business or otherwise residing on Seller's computer or information technology systems is properly licensed, and Seller has not made any unlicensed copies of such Software except those permitted for archival and back-up purposes as may be permitted per applicable Law. The Software (excluding commercially available off the shelf software licensed pursuant to a "shrink-wrap license" (or the functional equivalent) purchased for \$10,000 or less ("Commercial Software")) that is used or held for use by Seller or otherwise necessary to the operation of the Business or ownership of the Acquired Assets, including any embedded or integrated third party Software, does not contain any open source software, shareware or freeware. Any Software created or developed by Seller or on its behalf is free and clear of any defects, malware, viruses or other Harmful Code. To the Knowledge of Seller, the use, sale or licensing of the Software is not governed, in whole or in part, by the terms of the GNU General Public License or any other license requiring (as a license condition or otherwise) Seller to disclose, assign, or license any source code or any other content associated with the Software.

(g) Each current and former employee of Seller and each current and former independent contractor or other Person retained by Seller who, either alone or in concert with others, created or creates, developed or develops, invented or invents, discovered or discovers, derived or derives, programmed or programs or designed or designs any of the Business Intellectual Property Rights, has entered into a written agreement with Seller (i) presently assigning all such Business Intellectual Property Rights to Seller to the fullest extent permitted per applicable Law, (ii) providing that such employee, independent contractor or other Person waives any moral rights thereto to the fullest extent permitted per applicable Law, and (iii) containing confidentiality provisions reasonably tailored to protect any Trade Secrets. No former owner, Affiliate, employee or independent contractor of Seller, or other Person, has any valid claim or right to any of the Owned Business Intellectual Property. No employee of Seller is a party to or otherwise bound by any Contract with or obligated to any other Person (including any former employer) which prevents such employee from performing services for the Business.

(h) Seller has used commercially reasonable efforts, consistent with industry standards and in compliance with all applicable Data Protection Laws, to protect from unauthorized use or disclosure all Personal Data related to the Business collected by Seller or in the possession, custody, or control of Seller. Seller, and each of its respective employees, agents, Representatives, and contractors to whom such Personal Data has been disclosed, collected, provided or made available by or on behalf of Seller (or its or their third party service providers), are, and have (i) been in compliance with all applicable Data Protection Laws, (ii) been in compliance with all of Seller's respective Policies (and any applicable third party Policies), and (iii) implemented reasonable and appropriate administrative, technical, and physical safeguards that are designed to protect against unauthorized use, access and disclosure of such Personal Data. Seller has contractually required any third parties to whom such Personal Data has been disclosed, provided or made available, to have in place reasonable and appropriate administrative, technical, and physical safeguards and compliant with all applicable Data Protection Laws. Seller has secured all consents necessary to permit the disclosure or exchange of such Personal Data to any third Person to whom Seller has provided or made available such Personal Data. The consummation of the transactions contemplated by this Agreement does not violate the privacy rights of any Person and Seller has secured all consents, and issued all notifications, required to permit the transactions contemplated hereunder and in a manner compliant with all Data Protection Laws. Seller and its employees and, to the Knowledge of Seller, its agents, Representatives, and contractors have complied with all contractual obligations to which they are or were bound concerning the collection, storage, handling, use, disclosure, transmission, possession, disposal, Processing, or any breach of any Personal Data. Seller and its employees and, to the Knowledge of Seller, its agents, Representatives and contractors have obtained all requisite consents, permissions, and/or authorizations necessary for Seller or such Persons to use or disclose such Personal Data as used or disclosed by Seller or such Persons. Buyer will have the right to use any such Personal Data after the Effective Time, as used by Seller prior to the Effective Time, without notifying the Persons about whom such Personal Data relates or otherwise obtaining their consent. Buyer's use of such Personal Data will not violate any Data Protection Laws. Seller has not received any written complaint concerning the collection, Processing, use, or disclosure of any such Personal Data and there have been no Proceedings asserted or brought against Seller or any of its employees, nor, to the Knowledge of Seller, any of its agents, Representatives or contractors concerning such Personal Data or Seller's compliance with any Data Protection Law.

(i) Seller has adequate disaster recovery and security plans and procedures designed to protect the continuity of the Business and Seller's computer systems, networks and servers from failure, unauthorized use or access, and Seller is in compliance with such plans and procedures. Seller has comprehensive security plans that are reasonably designed to (i) identify internal and external risks to the security of any proprietary information of the Business and any Personal Data held or used by Seller in connection with the Business, and (ii) implement, monitor and improve safeguards to control those risks. There have been no actual or threatened breaches of the security of Seller's or its employees' or, to the Knowledge of Seller, its agents', Representatives' or contractors' computer systems, networks or servers, or any loss or unauthorized disclosure of Personal Data in the possession, custody, or control of Seller or any of its employees, agents, Representatives, or contractors, which required notice to any third Person and, to the Knowledge of Seller, there is no reason or reasons to expect that such a breach or any other unauthorized use, access, or disclosure of any Personal Data or any proprietary information of the Business has occurred. The computer hardware, servers, networks, and other information technology equipment or systems owned or used by Seller are reasonably sufficient for operation of the Business as currently conducted and as proposed to be conducted. There has been no material disruption of the hardware, servers, networks, and other information technology equipment or systems owned or used by Seller in the operation of the Business.

(j) Seller has in its possession, custody, or control all Personal Data and appropriate procedures, systems, and controls necessary to comply with any data subject's access, disclosure, opt-out, or deletion rights or requests granted or permitted under any Data Protection Law.

(k) Seller has complied with all terms of use, terms of service, and other Contracts, guidelines, and policies relating to its use of social media platforms, sites, or services related to the Business and there is no reasonable basis to believe that Seller is in violation of any such terms of use, terms of service, Contracts, guidelines, and/or policies.

(l) Seller owns or has exclusive control over all Domain Names comprising the Acquired Assets (including all login or access credentials for any social media accounts and Domain Name registrations) and no employee, contractor or other Person owns, maintains, or controls such login or access credentials.

(m) Seller has all consents, authorizations, permissions, and/or waivers necessary to use any names, images, likenesses, quotes, or other personal indicia of any person as so used by Seller as of the Effective Time, and such consents, authorizations, permissions, and/or waivers shall be included in the Acquired Assets and shall extend to Buyer's use of such personal indicia in substantially the same manner as Seller.

Section 4.22 Transactions with Related Parties. No shareholder, director, officer or employee of Seller or any member of such shareholder's, director's, officer's or employee's immediate family, or any Affiliate thereof or any entity in which any such Person owns more than a five percent ownership interest (a) owns or has owned any interest in any Acquired Asset or any property or assets owned by Seller used in or pertaining to the Business, (b) is a party to any Assumed Contract or any other Contract of Seller with respect to the Business, (c) has had any business dealings or a direct or indirect financial interest in any transaction with Seller with respect to the Business, or (d) owns any interest in, or is a director, officer, owner of, or lender to or borrower from, or has the right to participate in the profits of, any Person which is a competitor, supplier, customer or landlord of Seller with respect to the Business.

Section 4.23 Customers and Suppliers. Section 4.23 of the Disclosure Letter contains a list of the top 25 dollar volume purchasers (including customers and/or distributors) of Products from Seller (on a combined basis) and the top 25 dollar volume vendors of Seller (on a combined basis) with respect to the Business, in each case for the 2019 and 2020 calendar years and the eight (8) month period ended August 31, 2021. No such customer or vendor has terminated its customer or vendor relationship with Seller. No such customer has materially reduced, or intends to materially reduce, its level of business with Seller, ceased, or intends to cease, purchasing Products from Seller, or changed or modified the material terms for the purchase of Products from Seller. No such vendor has ceased, or intends to cease, supplying materials, products or services to Seller with respect to the Business or changed or modified the material terms for the supplying of those materials, products or services to Seller. Seller is not involved in any material dispute or controversy with any customer or vendor of the Business.

Section 4.24 Products, Product Warranties.

(a) The Products are, and since January 1, 2018 have been, (i) properly manufactured in accordance with applicable Law, (ii) of good and merchantable quality and condition, (iii) shipped in interstate commerce in accordance with the applicable Laws, and (iv) in conformity with all express and implied warranties. Seller and, to the Knowledge of Seller, the suppliers and subcontractors of Seller are, compliant with all applicable Laws.

(b) Seller has made available to Buyer the standard terms and conditions of sale for all the Products (containing applicable guaranty, warranty and similar indemnity provisions). None of the Products is or has been found to be misbranded or labeled in a manner contrary to applicable Laws or that is, or could reasonably be construed to be, false or misleading.

(c) Since January 1, 2017, Seller has not voluntarily or involuntarily initiated, conducted or issued, or caused to be initiated, conducted or issued, any recall, market withdrawal or replacement, safety alert, or other notice or action relating to an alleged lack of safety or regulatory compliance of any of the Products.

(d) No warranties have been given with respect to the Products and Services other than those for which complete and correct copies have been made available to Buyer, and no oral warranties have been given or made other than those described in Section 4.24(d) of the Disclosure Letter. Seller has not received any warranty claims, has no warranty claims pending, and, to the Knowledge of Seller, has not been threatened with any warranty claims under any Contract, and there is no basis for any such claim. Seller has not received any warranty claims, has no warranty claims pending, and, to the Knowledge of Seller, has not been threatened with any warranty claims under any Contract, and there is no basis for any such claim, in each instance, relating to Seller Products or Services for aggregate amounts in excess of Twenty Thousand Dollars (\$20,000) per quarter.

(e) There are no material defects in the design or manufacture of any of the products of Seller. Seller has not received any written notice of a claim against Seller alleging a design or manufacturing defect in any products of Seller, in each case, excluding any and all requests for product returns in the ordinary course consistent with past experience of Seller and there is no basis therefor.

Section 4.25 Anti-Bribery.

(a) Neither Seller nor any of its officers or directors nor, to the Knowledge of Seller, any of its agents, employees or other Person acting on behalf of Seller, has, directly or indirectly, taken any action with respect to the Business that would cause Seller to be in violation of any provision of any applicable anti-bribery or anti-corruption Law.

(b) Neither Seller nor any of its officers or directors nor, to the Knowledge of Seller, any of its agents, employees or other Person acting on behalf of Seller, has offered, paid, promised to pay, or authorized the payment of any money, or offered, given, promised to give, or authorized the giving of anything of value to any Official, or to any other Person under circumstances where Seller or any of its officers, directors, agents, employees, or Persons acting on their behalf knew or had reason to know that all or a portion of such money or thing of value would be offered, promised, or given, directly or indirectly, to any Official, for the purpose of (i) influencing any act or decision of such Official in his or her official capacity, (ii) inducing such Official to do, or omit to do, any act in relation to his or her lawful duty, (iii) securing any improper advantage, or (iv) inducing such Official to influence or affect any act or decision of any Governmental Entity, in each case in order to assist Seller or any of its officers, directors, agents, employees, or Persons acting on its behalf in obtaining or retaining business for or with, or directing business to, any Person with respect to the Business.

Section 4.26 Fraudulent Conveyance. The sale of the Acquired Assets pursuant to this Agreement is made in exchange for fair and equivalent consideration. Seller is not now insolvent and will not be rendered insolvent by the sale, transfer and assignment of the Acquired Assets pursuant to this Agreement. Seller is not entering into this Agreement or any of Ancillary Agreements with the intent to defraud, delay or hinder its creditors, and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements will not have any such effect. The transactions contemplated in this Agreement or any Ancillary Agreements will not constitute a fraudulent conveyance, or otherwise give rise to any right of any creditor of Seller to any of the Acquired Assets after the Effective Time.

Section 4.27 Brokers and Other Advisors. Except for OEM Capital Corp., no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Seller.

Section 4.28 Disclosure. No representation or warranty or other statement made by Seller in this Agreement or otherwise in connection with the transactions contemplated hereby contains any untrue statement or omits to state a material fact necessary to make any of them, in light of the circumstances in which it was made, not misleading.

Section 4.29 Buyer Representations and Warranties. Seller acknowledges and agrees to Buyer's disclaimer set forth in Section 5.7 of any representations or warranties other than those set forth in Article V and in any certificate delivered by Buyer in connection with this Agreement, whether made by Buyer or any of its Affiliates or Representatives, and of all Liability for any representation or warranty made (orally or in writing) to Seller, its Affiliates or Representatives, other than those set forth in Article V and in any certificate delivered by Buyer in connection with this Agreement.

Section 4.30 No Additional Representations and Warranties. Except as set forth in this Article IV or in any certificate delivered by Seller pursuant to this Agreement or in any Ancillary Agreement, none of Seller or any of its Affiliates or Representatives is making any representation or warranty, whether express or implied, with respect to Seller and Seller hereby disclaims any such purported representations or warranties.

ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller and Owner as follows:

Section 5.1 Organization. Buyer is corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware. Buyer has all requisite corporate power and authority necessary to own and lease its properties and assets and to carry on its business as it is now being conducted.

Section 5.2 Authorization; Enforceability. Buyer has all requisite corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Buyer of this Agreement and the Ancillary Agreements, and the consummation by Buyer of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary actions and no other action on the part of Buyer is necessary to authorize the execution, delivery and performance by Buyer of this Agreement and the Ancillary Agreements and the consummation by Buyer of the transactions contemplated hereby and thereby. This Agreement has been duly executed and delivered by Buyer and, assuming due authorization, execution and delivery by Seller of this Agreement, this Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the rights of creditors' rights generally and to general principles of equity, whether considered in a Proceeding at Law or in equity. As of the Closing, each of the Ancillary Agreements has been duly executed and delivered by Buyer and, assuming due authorization, execution and delivery by Seller of the Ancillary Agreements, the Ancillary Agreements, as of the Closing, constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar Laws affecting the rights of creditors' rights generally and to general principles of equity, whether considered in a Proceeding at Law or in equity.

Section 5.3 No Violation. Neither the execution and delivery of this Agreement or the Ancillary Agreements to which Buyer is a party, nor the consummation by Buyer of the transactions contemplated hereby or thereby, nor compliance by Buyer with any of the terms or provisions of this Agreement or the Ancillary Agreements, conflicts with or violates any provision of the Organizational Documents of Buyer, violates any Law, judgment, writ, order or injunction of any Governmental Entity applicable to Buyer or violates or constitutes a default in any material respect under any of the terms, conditions or provisions of any contract to which Buyer is a party, except any matters described in clauses (b) or (c) above that would not have a material adverse effect on Buyer's ability to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

Section 5.4 Governmental Authorizations and Consents. No consents, Licenses, orders, exemptions or authorizations of, or other actions by, or registrations, declarations or filings with, any Governmental Entity are required to be obtained by Buyer in connection with the execution, delivery and performance of this Agreement or the Ancillary Agreements, nor the consummation by Buyer of the transactions contemplated hereby or thereby.

Section 5.5 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses, in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Buyer.

Section 5.6 Seller Representations and Warranties. Buyer acknowledges and agrees to Seller's disclaimer set forth in Section 4.30 of any representations or warranties other than those set forth in Article IV and in any certificate delivered by Seller in connection with this Agreement, whether made by Seller or any of its Affiliates or Representatives, and of all Liability for any representation or warranty communicated (orally or in writing) to Buyer, its Affiliates or Representatives, other than those set forth in Article IV and in any certificate delivered by Seller in connection with this Agreement.

Section 5.7 No Additional Representations and Warranties. Except as set forth in this Article V or in any certificate delivered by Buyer pursuant to this Agreement or in any Ancillary Agreement, none of Buyer or any of its Affiliates or Representatives is making any representation or warranty, whether express or implied, with respect to Buyer and Buyer hereby disclaims any such purported representations or warranties.

**ARTICLE VI
COVENANTS**

Section 6.1 Employee Matters.

(a) Hiring of Transferred Employees. Prior to the Closing, Buyer shall offer employment to those Employees listed on Section 6.1(a) of the Disclosure Letter. Employment of those Employees who have complied with and successfully completed Buyer's pre-employment procedures and testing applicable to the relevant position and who accept such employment (the "Transferred Employees") shall be effective as of the Effective Time; provided, however, that Transferred Employees on non-medical leave on the Closing Date shall not commence work at their assigned facility until expiration of such leave, and Transferred Employees on medical leave on the Closing Date shall not commence work at their assigned facility until submission of appropriate medical documentation verifying their ability to return to work, and in the cases of subsections (i) and (ii), following the Effective Time such Transferred Employees shall be entitled to participate in such employee benefit plans as the other Transferred Employees participate. As of the Effective Time, Seller shall terminate the employment of all Transferred Employees. Buyer agrees to provide each Transferred Employee with substantially the same number of days of paid time-off as such Transferred Employee was entitled to as of the Closing Date. All Liabilities relating to the Transferred Employees that are the responsibility of Buyer shall be set forth on Section 6.1(a) of the Disclosure Letter and shall be included in the Final Working Capital as a current Liability. Any Liabilities relating to the Transferred Employees not set forth on Section 6.1(a) of the Disclosure Letter shall remain with Seller.

(b) No Third Party Beneficiaries. The provisions of this Section 6.1 are solely for the benefit of the Parties, and no employee or former employee of Seller or Buyer or any other individual associated therewith shall be regarded for any purpose as a third-party beneficiary of this Agreement.

Section 6.2 Public Announcements. Upon execution of this Agreement, Buyer will issue a press release regarding this Agreement and the transactions contemplated hereby; provided that the Parties will use reasonable efforts to agree upon the text of such press release prior to its release. Except for the press release referenced in the preceding sentence and as otherwise required by Law or applicable requirements of stock exchanges, neither Party shall issue any press release or public announcement regarding this Agreement or the transactions contemplated hereby without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, and the Parties shall use reasonable efforts to agree upon the text of any such release or announcement prior to its release. Nothing in this Section 6.2 shall restrict disclosures by Guarantor that are required by applicable securities or other Laws or regulations or the applicable rules of any stock exchange having jurisdiction over Guarantor, provided that, in each case to which such an exception applies, Guarantor shall, to the extent legally permissible, provide Seller not less than twenty-four (24) hours to comment on a draft of such disclosure, and Guarantor shall consider in good faith all comments provided by Seller.

Section 6.3 Commercially Reasonable Efforts. Subject to the terms and conditions set forth in this Agreement and to applicable legal requirements, each of the Parties shall cooperate and use its respective best efforts to take, or cause to be taken, as promptly as practicable all appropriate action, and do, or cause to be done, and assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement.

Section 6.4 Further Assurances.

(a) At any time or from time to time following the Closing Date, in the event any asset(s) or properties of Seller used or useful in the Business was not delivered to Buyer at the Closing or included as an Acquired Asset, Seller shall promptly deliver such asset to Buyer and execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions, as Buyer may deem appropriate or desirable to assign, transfer, convey and deliver such asset to Buyer, in each case, free and clear of all Liens, and without the payment of any consideration therefor; provided, however, that no Excluded Asset shall be subject to the provisions of this Section 6.4(a).

(b) From time to time following the Closing Date, as and when requested by any Party, the other Party shall, without additional cost or expense, execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions, as such other Party may reasonably deem necessary or desirable to fully effect or confirm the transactions contemplated hereby.

Section 6.5 Use of Marks. On the Closing Date, Seller shall cease all use of and refrain from using any and all Marks comprising the Business Intellectual Property Rights or any confusingly similar variations thereof and shall destroy, delete, and/or erase any public-facing materials bearing or containing any such Marks.

Section 6.6 Accounts Receivable. Seller shall promptly forward to Buyer any and all proceeds from accounts receivable and any other property or rights comprising a part of the Acquired Assets that are received by Seller on or after the Closing Date.

Section 6.7 Tax Matters.

(a) Transfer Taxes. Buyer, on the one hand, and Seller, on the other hand, shall each pay 50% of all transfer, documentary, sales, use, stamp, registration, and other such Taxes and fees incurred as a result of the transactions contemplated by this Agreement, and specifically excluding any income or similar taxes of Seller ("Transfer Taxes"). The Party required by applicable Law shall file all necessary Tax Returns and other documentation with respect to such Transfer Taxes. Buyer or Seller, as the case may be, shall use its reasonable best efforts to make such Tax Returns available for review by the other Party sufficiently in advance of the due date for the filing of such Tax Returns to provide such other Party with a meaningful opportunity to analyze and comment on such Tax Returns before filing. The Party filing such Tax Returns shall make such changes and revisions to the Tax Returns as are reasonably requested by the other Party, subject to the consent of the Party filing the returns, which consent shall not be unreasonably withheld or delayed. Buyer and Seller shall cooperate in executing any appropriate resale or other tax exemption certificates in connection with this Agreement and the transactions contemplated hereby to reduce or eliminate any such Transfer Taxes.

(b) Proration. Ad valorem, property and similar taxes (but not including income Taxes) attributable to the Acquired Assets shall be prorated, as of the Effective Time, with Seller paying a fraction thereof based upon the number of days elapsed in the applicable fiscal period prior to the Effective Time and Buyer paying a fraction thereof based upon the number of days elapsed in the applicable fiscal period on and after the Effective Time.

Section 6.8 Bulk Sales Laws. Seller acknowledges that any applicable provisions of any tax clearance or bulk sales laws pertaining to the transactions contemplated by this Agreement were not complied with by Seller or Buyer prior to the Closing. Seller shall indemnify and hold harmless Buyer from and against any Losses arising out of or relating to such tax clearance or bulk sales laws pursuant to Section 8.2(d).

Section 6.9 Inspection and Access to Information. For a period of three (3) years after the Closing Date, each Party will provide reasonable access to the other Party during normal business hours to books and records and other information in its possession necessary for such other Party to prepare any Tax Returns or other governmental filings, respond to inquiries of any Governmental Entity or facilitate the resolution of any claims made against or incurred by such Party (other than pursuant to this Agreement), upon the reasonable request of such other Party and upon reimbursement of the Party providing access by the other Party of its reasonable, out-of-pocket costs of providing such information. Notwithstanding anything to the contrary in this Section 6.9, neither Party shall be required to disclose any information to the other Party or its respective Representatives if such disclosure would, in the reasonable discretion of such Party, (a) jeopardize any attorney-client or other legal privilege or (b) contravene any applicable Laws or any Contract to which such Party is a party or otherwise bound.

Section 6.10 Restrictive Covenants.

(a) Seller recognizes and acknowledges that Seller has had access to Confidential Information. Seller expressly acknowledges that the Confidential Information is a unique asset, access to and knowledge of which are essential to preserve the goodwill and going business value of the Business. In recognition of this fact, Seller agrees that, for a period of five years after the Closing Date (provided that, the obligations in this Section 6.10(a) shall survive with respect to Confidential Information that is a trade secret for so long as it remains a trade secret pursuant to applicable Law), Seller will, and will cause its Affiliates and Representatives to, keep confidential and not disclose to any Person any Confidential Information known to or in the possession or control of Seller or any of its Affiliates or Representatives and that Seller will not, and will cause its Affiliates and Representatives not to, use, misappropriate, exploit or publish any Confidential Information without the prior written consent of Buyer, (i) unless such information is generally known to the public other than as a result of breach of this Agreement by Seller or any of its Affiliates or Representatives, or (ii) except to the extent Seller is legally obligated to disclose such information pursuant to a federal or state court order or legal Proceedings or pursuant to a subpoena or requirement of any Governmental Entity; provided Seller gives Buyer, as promptly as practicable, prior written notice of such intended disclosure to enable Buyer to seek a protective order or otherwise prevent or restrict such disclosure, and cooperates with Buyer in connection therewith. The term "Confidential Information," as used in this Agreement, shall mean any and all confidential, proprietary, technical, business or financial information of or concerning the Business or the Acquired Assets, including marketing and financial information, personnel, sales and statistical data, plans for future development, computer programs, information and knowledge pertaining to the products and services offered, inventions, innovations, designs, ideas, records, plans, drawings, intellectual property, technical data, source and object codes, software, proprietary information, processes, systems, documents, writings, manuals, inventions, discoveries, formulae, recipes, advertising, manufacturing, sales methods and systems, pricing information, sales and profit figures, sales volume, research/development activities, customer and distributor lists, and relationships with customers, distributors, suppliers, licensees, licensors, consultants and others who have business dealings with the Business and information with respect to various techniques, procedures, processes and methods. Confidential Information also includes confidential or proprietary information received by Seller from third parties or otherwise subject to an obligation to maintain the confidentiality of such information.

(b) Beginning on the Closing Date and continuing until the five year anniversary of the Closing Date (the “Restricted Period”), Seller, and each of its Affiliates set forth on Section 6.10(b) of the Disclosure Letter, shall not (whether directly or indirectly, through an Affiliate or some other Person, or in the name or on behalf of an Affiliate or some other Person) directly or indirectly, through an Affiliate or some other Person, or in the name or on behalf of an Affiliate or some other Person) (i) anywhere in the world own, manage, operate, control, finance or participate in the ownership, management, operation, control or participate in the financing of, render financial assistance to, be connected as an officer, director, manager, employee, consultant or otherwise with, use or permit Seller’s name to be used in connection with, or develop products or services for, any Competing Business; (ii) solicit, cause, induce or attempt to cause or induce any customer, distributor, supplier, licensee, licensor, consultant or other business relation (other than any employee) of the Business to cease doing business with Buyer, or to modify such Person’s relationship with Buyer, or do any act which would be reasonably be likely to interfere with or result in the impairment of such Person’s relationship with Buyer; or (iii) solicit for employment, cause, induce or attempt to cause or induce to leave the employ of Buyer or any Person who is then, or was within the prior twelve month period, an employee of the Business or hire any such Person as an employee or consultant. Notwithstanding the foregoing, Section 6.10(b) shall not restrict Seller, or each of its Affiliates set forth on Section 6.10(b) of the Disclosure Letter, from, with respect to clause (b)(iii) above, (A) soliciting or hiring any employee whose employment has been terminated by the Business without cause at least six months prior to the first date of such solicitation or hiring, or (B) any general solicitation for employment (including through third party recruiters or executive search firms) not directed at Buyer or any of the applicable employees of the Business. Notwithstanding the foregoing, Seller’s or its Affiliates’ ownership of securities of two percent (2%) or less of any class of securities of a public company shall not be considered to be a violation of Seller’s or its Affiliates’ obligations under Section 6.10(b). The Parties agree that the Affiliates of Seller set forth on Section 6.10(b) of the Disclosure Letter shall be deemed Parties to this Agreement for the purposes of this Section 6.10 and shall be bound by the provisions contained in this Section 6.10.

(c) If any provision of Sections 6.10(a) or 6.10(b) is adjudged to be void or unenforceable, in whole or in part, such adjudication shall not affect the validity of the remainder of Sections 6.10(a) or 6.10(b). In the event that any portion of Sections 6.10(a) or 6.10(b) should ever be adjudicated to exceed the maximum time, geographic, service, product or other limitations permitted by applicable Law, then such provisions shall be deemed reformed to the maximum time, geographic, service, product or other limitations permitted by applicable Law. Seller agrees that, in the event of a violation of Sections 6.10(a) or 6.10(b), the duration of the restriction violated shall be extended by the period of time of such violation.

(d) The covenants contained in this Section 6.10 relate to matters which are of a special, unique and extraordinary character and a violation of any of the terms of this Section 6.10 would cause irreparable injury to Buyer, the amount of which will be impossible to estimate or determine and which cannot be adequately compensated. Accordingly, the remedy at Law for any breach of this Section 6.10 will be inadequate and Buyer's substantial investment in the Business materially impaired. Accordingly, Seller expressly acknowledges that Seller is voluntarily entering into this Agreement and that the terms and conditions of this Agreement are fair and reasonable to Seller in all respects. Moreover, Seller agrees and acknowledges that Buyer would not consummate the transactions contemplated by this Agreement and the Ancillary Agreements unless Seller agrees to the provisions of this Section 6.10. Seller hereby acknowledges and agrees that Buyer shall be entitled to an injunction, specific performance and/or other equitable relief to prevent any breach of this Section 6.10 without the necessity of proving actual damages or posting any bond (in addition to all other rights and remedies to which Buyer may be entitled in respect of any such breach). The Restricted Period shall be automatically tolled and extended for a period of time equal to any period(s) of noncompliance with the restrictions of this Section 6.10.

(e) Notwithstanding anything to the contrary in this Agreement, in connection with any merger, sale, reorganization or other transfer of substantially all of the Acquired Assets, the Business or the equity securities of Buyer after Closing, the restrictions set forth in this Section 6.10 may be transferred to the surviving entity or the acquirer of such assets or equity securities without the consent of Seller.

Section 6.11 Transition Services. For three (3) months following the Closing Date, Owner agrees to remain available to provide Buyer with transition assistance on matters with which Owner was involved during his or her employment, in an amount up to Twenty-Five (25) hours per week. Owner shall render such assistance in a timely manner on reasonable notice from Buyer. Owner shall not be entitled to any separate compensation for the services described in this paragraph (other than reimbursement for reasonable out of pocket expenses actually incurred). Buyer agrees to provide reasonable advance notice of the need for Owner's assistance and shall exercise reasonable efforts to schedule and limit such matters so as to avoid interfering with Owner's personal and other professional obligations.

ARTICLE VII CLOSING

Section 7.1 Closing. The consummation of the transactions contemplated by this Agreement (the "Closing") shall take place via fax, .pdf or other electronic transmission of signature pages and other deliveries at the Closing, on the date and time as to which Buyer and Seller agree in writing. The date of the Closing is referred to herein as the "Closing Date." The Closing shall be effective for all purposes as of the Effective Time.

Section 7.2 Closing Deliveries of Seller and Owner. At the Closing, Seller and Owner shall deliver, or cause to be delivered, to Buyer the following:

- (a) the Escrow Agreement, duly executed by Seller;
- (b) a bill of sale, in the form of Exhibit C (the "Bill of Sale"), duly executed by Seller;
- (c) an assignment and assumption agreement, in the form of Exhibit D (the "Assignment and Assumption Agreement"), duly executed by Seller;

(d) an instrument of assignment transferring the Business Intellectual Property Rights to Buyer, in the form of Exhibit E (the “Intellectual Property Assignment”), duly executed by Seller;

(e) good standing certificates for Seller from the jurisdiction in which Seller is incorporated and each other jurisdiction in which it is qualified to do business as a foreign business entity, in each case dated not more than 15 days prior to the Closing Date;

(f) certificate of the secretary of Seller dated the Closing Date, certifying as to the incumbency and signatures of the officers or other Representatives of Seller executing this Agreement and each of the Ancillary Agreements, together with evidence of incumbency of such secretary, that resolutions in the form attached to the certificate have been duly adopted by Seller’s board of directors and its shareholders, authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby, and the authenticity of attached copies of the Organizational Documents of Seller;

(g) UCC-3 Financing Statements and other appropriate evidence of the termination of all Liens on the Acquired Assets together with duly executed Payoff Letters evidencing the amount of payment necessary to terminate such Liens and authorizing the filing of the UCC-3 Financing Statements and other appropriate evidence and, as applicable, duly executed Contracts or other documents necessary to terminate any such Lien;

(h) proof of receipt of the Consents identified on Section 7.2(h) of the Disclosure Letter;

(i) a non-foreign person affidavit that complies with the requirements of Section 1445 of the Code, duly executed by Seller and in form and substance reasonably satisfactory to Buyer;

(j) the Europe B.V. Asset Purchase Agreement, duly executed by Videology Imaging Solutions Europe B.V. and Owner;

(k) one or more compact discs or USBs (which shall be permanent and accessible, without the need for any password, with readily and commercially available software) containing, in electronic format, all documents (including legal, financial and Tax) posted to the Data Room as of the third Business Day prior to the date of this Agreement;

(l) all keys, electronic codes, electronic key cards, passwords and any and all other such security devices, if applicable, to each of the Leased Real Property;

(m) If applicable, any tax clearance certificates received from any Governmental Entity pertaining to the transactions contemplated by this Agreement; and

(n) all other documents required to be entered into or delivered by Seller at or prior to the Closing pursuant to this Agreement.

Section 7.3 Closing Deliveries of Buyer. At the Closing, Buyer shall deliver, or cause to be delivered, to Seller the following:

- (a) the Escrow Agreement, duly executed by Buyer and the Escrow Agent;
- (b) that portion of the Purchase Price to which Seller is entitled in accordance with Section 3.2(b);
- (c) the Assignment and Assumption Agreement, duly executed by Buyer;
- (d) the Intellectual Property Assignment, duly executed by Buyer;
- (e) the Europe B.V. Asset Purchase Agreement, duly executed by Ambrell B.V.; and
- (f) all other documents required to be entered into or delivered by Buyer at or prior to the Closing pursuant to this Agreement.

ARTICLE VIII INDEMNIFICATION

Section 8.1 Survival of Representations and Warranties. All representations and warranties made by the Parties in this Agreement shall survive the Closing Date for a period of eighteen (18) months, except that the representations and warranties contained in Sections 4.1 (Organization; Capitalization), 4.2 (Authorization; Enforceability), 4.8(a) (Title to Assets), 4.22 (Transactions with Related Parties), 4.27 (Brokers and Other Advisors), 5.1 (Organization), 5.2 (Authorization; Enforceability) and 5.5 (Brokers and Other Advisors) shall survive the Closing for a period of five years, the representations and warranties contained in Section 4.9 (Taxes) shall survive for the period of the applicable statute of limitations plus sixty (60) days, or if no applicable statute of limitations, without time limitation (the Sections contained in clause (a) and this clause (b), collectively, the “Fundamental Representations”), any representation or warranty as to which a claim (including a contingent claim) shall have been asserted prior to the expiration of such representation or warranty shall continue in effect with respect to such claim until such claim shall have been finally resolved or settled, and any representation or warranty contained in this Agreement made by any Party or any information furnished by any Party that was made by such Party fraudulently shall survive forever. All covenants and agreements of the Parties in this Agreement that are to be performed prior to Closing shall terminate upon Closing. All covenants and agreements of the Parties in this Agreement that are to be performed after Closing shall survive forever unless such covenant or agreement specifies a term, in which event such covenant or agreement shall survive for such specified term plus sixty (60) days.

Section 8.2 Indemnification by Seller and Seller’s Shareholders. Seller and, if Seller (i) has distributed any of the Purchase Price to its shareholders, (ii) is no longer in existence, or (iii) is not otherwise able to do any of the following, then the shareholders of Seller set forth on the signature pages hereto, jointly and severally, shall defend, indemnify and hold harmless Buyer, its Affiliates and their respective officers, directors, owners, managers, employees, agents, advisors and other Representatives, successors and assigns (collectively, the “Buyer Indemnified Parties”) from and against any and all losses, damages, Liabilities, deficiencies, audits, claims, interest, awards, judgments, settlements, fines, penalties, fees, Taxes, costs and expenses (including attorneys’ fees, costs and other out-of-pocket expenses incurred in investigating, preparing, defending or settling the foregoing) (hereinafter collectively, “Losses”) arising out of, resulting from or relating to:

- Agreement;
- (a) any breach of or inaccuracy in any representation or warranty of Seller or Owner contained in this Agreement or in any Ancillary Agreement;
 - (b) any breach of any covenant or agreement by Seller or Owner contained in this Agreement or any Ancillary Agreement;
 - (c) any failure by Seller to pay any Excluded Liability when due;
 - (d) any failure to comply with, or assertion against Buyer of, “successor liability,” “bulk sales,” “bulk transfers” or similar Laws or fraudulent transfer Laws;
 - (e) the ownership, operation or use of the Acquired Assets or the operation of the Business on or prior to the Closing Date; or
 - (f) any Benefit Plan maintained, sponsored or contributed to by Seller or any ERISA Affiliate of Seller.

Section 8.3 Indemnification by Buyer. Buyer shall defend, indemnify and hold harmless Seller, its Affiliates and their respective officers, directors, owners, managers, employees, agents, advisors, and other Representatives, successors and assigns (collectively, the “Seller Indemnified Parties”) from and against any and all Losses arising out of, resulting from or relating to:

- (a) any breach of or inaccuracy in any representation or warranty of Buyer contained in this Agreement or in any Ancillary Agreement;
- (b) any breach of any covenant or agreement by Buyer contained in this Agreement or any Ancillary Agreement; or
- (c) any failure by Buyer to pay any Assumed Liability when due.

Section 8.4 Procedures.

(a) Notice of Asserted Liability. In order for a Buyer Indemnified Party or Seller Indemnified Party (an “Indemnified Party”) to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a Loss or a claim or demand that may result in a Loss (a “Liability Claim”), such Indemnified Party shall deliver notice thereof to the Party against whom indemnity is sought (the “Indemnifying Party”) promptly after receipt by such Indemnified Party of written notice of the Liability Claim (the “Claim Notice”), describing in reasonable detail the facts giving rise to any claim for indemnification hereunder and the amount or method of computation of the amount of such claim (estimated, if necessary and to the extent feasible). No delay in or failure to give a Claim Notice by the Indemnified Party to the Indemnifying Party pursuant to this Section 8.4(a) will adversely affect any rights or remedies that the Indemnified Party has under this Agreement or alter or relieve the Indemnifying Party of its obligation to indemnify the Indemnified Party to the extent that such delay or failure has not materially prejudiced the Indemnifying Party.

(b) Third Party Claims. If any Claim Notice identifies a Liability Claim brought by a third party (a “Third Party Claim”), then the Indemnifying Party has the right, exercisable by written notice to the Indemnified Party within fifteen (15) days after receipt of a Claim Notice from the Indemnified Party relating to a Third Party Claim in respect of which indemnity may be sought under this Article VIII, to assume and conduct the defense of such Third Party Claim in accordance with the limits set forth in this Agreement, with counsel selected by the Indemnifying Party and reasonably acceptable to the Indemnified Party. Notwithstanding the foregoing, the Indemnifying Party shall have the right to assume the defense only if the Third Party Claim seeks (and continues to seek) solely monetary damages; the Indemnifying Party has sufficient financial resources, in the judgment of the Indemnified Party, to satisfy the amount of any adverse monetary judgment that is reasonably likely to result; the Indemnifying Party expressly agrees in writing to be fully responsible for all Losses (subject to the limits in this Article VIII) relating to such Third Party Claim; the Third Party Claim does not relate to or arise in connection with any criminal or quasi criminal Proceeding, allegation or investigation; and (v) such Third Party Claim does not relate to or involve a claim asserted directly by or on behalf of a Person that is or was formerly a supplier, customer or employee of the Business (the conditions set forth in clauses (i) through (v) are, collectively, the “Litigation Conditions”).

(i) The Indemnifying Party or the Indemnified Party, as the case may be, has the right to participate, at its own expense, in the defense of any Third Party Claim that the other is defending as provided in this Agreement. If the Indemnifying Party has assumed the defense of a Third Party Claim as provided in this Section 8.4(b):

(A) the Indemnified Party shall at all times have the right to fully participate in such defense at its own expense directly or through counsel; provided, however, if the named parties to the Proceeding include both the Indemnifying Party and the Indemnified Party and there is a conflict of interest that would make it inappropriate under applicable standards of professional conduct to have one counsel for the Indemnifying Party and the Indemnified Party, the expense of separate counsel for such Indemnified Party shall be paid by the Indemnifying Party;

(B) if any of the Litigation Conditions ceases to be met or the Indemnifying Party fails to diligently defend such Third Party Claim, the Indemnified Party may assume its own defense, and the Indemnifying Party will be liable for all costs and expenses paid or incurred in connection with such defense, subject to the limits in this Article VIII; and

(C) the Indemnifying Party may not, without the prior written consent of the Indemnified Party, consent to a settlement of, or the entry of any judgment arising from, any such Third Party Claim that does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a unconditional release from all Liability in respect of such Third Party Claim, grants any injunctive or equitable relief or contains any admission of wrongdoing on the part of the Indemnified Party.

(ii) If the Indemnifying Party does not assume the defense of a Third Party Claim in accordance with this Section 8.4(b), the Indemnified Party may defend, and shall have the right to settle, such Third Party Claim without the consent of the Indemnifying Party.

(c) Direct Claims. In the event the Claim Notice does not involve a Third Party Claim, within fifteen (15) days after receipt of the Claim Notice (the "Direct Claims Dispute Period"), the Indemnifying Party shall by written notice (the "Response Notice") to the Indemnified Party either concede liability in whole as to the amount claimed in the Claim Notice (the "Claimed Amount"), deny liability in whole as to such Claimed Amount, or concede liability in part and deny liability in part of such Claimed Amount. If a Response Notice is not received by the Indemnified Party prior to the expiration of the Direct Claims Dispute Period, then the Indemnifying Party shall be conclusively deemed to have agreed that the full Claimed Amount is owed to the Indemnified Party. If the Parties are not able to resolve any dispute over a claim brought under this subsection (c) within thirty (30) days after the receipt of a Response Notice denying liability in whole or in part, such dispute shall be subject to Section 9.4.

Section 8.5 Limits on Indemnification.

(a) The right to indemnification, payment of Losses or other amounts pursuant to this Agreement or other remedy based upon any representation, warranty, covenant, obligation or other provision contained in this Agreement shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being required) at any time, whether before or after the execution and delivery of this Agreement, with respect to the accuracy or inaccuracy of or compliance with any such representation, warranty, covenant, obligation or other provision or the waiver of any condition based on the accuracy of any representation or warranty, or on the performance of or compliance with any covenant, obligation or other provision, and will not affect the right to indemnification or the right to receive any other payments based on such representations, warranties, covenants, obligations and other provisions.

(b) Notwithstanding anything to the contrary contained in this Agreement: Seller shall not be liable to any Buyer Indemnified Party for any claim for indemnification pursuant to Section 8.2(a) unless and until the aggregate amount of indemnifiable Losses that may be recovered from Seller equals or exceeds \$20,000 (the "Indemnification Basket"), in which case Seller shall only be obligated to indemnify such Buyer Indemnified Party for the amount of such Losses in excess of the Indemnification Basket; and the maximum aggregate amount of indemnifiable Losses which may be recovered by the Buyer Indemnified Parties pursuant to Section 8.2(a) shall be an amount equal to \$720,000 (the "Cap"); provided, that the limitations in (i) and (ii) shall not apply to any inaccuracy in or breach of (x) any Fundamental Representation of Seller, or (y) any representation and warranty that was made by Seller fraudulently. Seller shall not be liable to any Buyer Indemnified Parties for indemnification under Section 8.2(a) in an aggregate amount greater than the Purchase Price (the "Fundamental Cap"); provided, that the limitation in this sentence shall not apply to any inaccuracy in or breach of any representation and warranty that was made by Seller fraudulently.

(c) Notwithstanding anything to the contrary contained in this Agreement: (i) Buyer shall not be liable to any Seller Indemnified Party for any claim for indemnification pursuant to Section 8.3(a) unless and until the aggregate amount of indemnifiable Losses that may be recovered from Buyer equals or exceeds the Indemnification Basket, in which case Buyer shall only be obligated to indemnify such Seller Indemnified Party for the amount of such Losses in excess of the Indemnification Basket; and (ii) the maximum aggregate amount of indemnifiable Losses which may be recovered by the Seller Indemnified Parties pursuant to Section 8.3(a) shall be an amount equal to the Cap; provided, that the limitations in (i) and (ii) shall not apply to any inaccuracy in or breach of (x) any Fundamental Representation of Buyer, or (y) any representation and warranty that was made by Buyer fraudulently. Buyer shall not be liable to any Seller Indemnified Parties for indemnification under Section 8.3(a) in an aggregate amount greater than the Fundamental Cap; provided, that the limitation in this sentence shall not apply to any inaccuracy in or breach of any representation and warranty that was made by Buyer fraudulently.

(d) For purposes of (i) determining whether a breach of or inaccuracy in a representation or warranty has occurred pursuant to this Agreement and (ii) calculating the amount of Losses arising from a breach of or inaccuracy in any representation and warranty for which an Indemnified Party is entitled to indemnification under this Agreement, each representation and warranty contained in this Agreement shall be read without giving effect to the words “material”, “Material Adverse Effect”, “in any material respect”, “in all material respects” and similar phrases or qualifiers (and shall be treated as if such words were deleted from such representation or warranty).

(e) The amount to which any Indemnified Party is entitled hereunder shall be reduced by the amount of insurance proceeds actually received by the Indemnified Party in respect of such claim for indemnification, less any costs and expenses (including deductibles and co-insurance) incurred by the Indemnified Party in order to collect such insurance proceeds and less increases in premiums attributable to such amounts.

Section 8.6 Method of Payment for Losses.

(a) With respect to the payment of Losses for claims made pursuant to Section 8.2, the Buyer Indemnified Parties (i) shall look first to the Escrow Amount for recourse pursuant to the terms of the Escrow Agreement and (ii) thereafter shall have recourse against Seller for all Losses in excess of the Escrow Amount subject to the limits set forth in Section 8.5(b). Payment of Losses from the Escrow Amount for claims made pursuant to Sections 8.2(b) through (f) will not reduce the Cap or the Fundamental Cap. The Cap shall only be reduced by the payment of Losses for claims that constitute a breach of or inaccuracy in any representation or warranty of Buyer that is not a Fundamental Representation and the Fundamental Cap shall only be reduced by the payment of Losses for claims that constitute a breach of or inaccuracy in any representation or warranty of Buyer that is a Fundamental Representation. Upon the determination of any Loss for which Seller is obligated to indemnify the Buyer Indemnified Parties pursuant to the procedures of Section 8.4 and this Agreement: (i) if such Loss is to be paid from the Escrow Amount, Buyer and Seller shall promptly deliver a written instruction to the Escrow Agent in accordance with the Escrow Agreement directing the Escrow Agent to disburse to Buyer an amount equal to such Loss from the Escrow Amount; and (ii) if such Loss is to be paid by Seller, Seller shall, within three (3) Business Days of such determination, pay such amount to the applicable Buyer Indemnified Party (to an account specified by Buyer to Seller) by wire transfer of immediately available funds.

(b) Upon the determination of any Loss for which Buyer is obligated to indemnify the Seller Indemnified Parties pursuant to the procedures of Section 8.4 and this Agreement, Buyer shall, within three (3) Business Days of such determination, pay such amount to the applicable Seller Indemnified Party (to an account specified by Seller) by wire transfer of immediately available funds.

(c) Within three (3) Business Days after the date that is eighteen (18) months after the Closing Date (such 18-month period, the "Escrow Period"), Seller shall prepare and Buyer and Seller shall execute and deliver joint written instructions to the Escrow Agent pursuant to the terms of the Escrow Agreement to release to the Seller, by wire transfer to an account or accounts designated by Seller, the remaining balance of the Escrow Amount then being held by the Escrow Agent, and the Escrow Agreement shall terminate; provided, however, that if Seller has received, on or before the expiration of the Escrow Period, one or more Claim Notices submitted in good faith by the Buyer that the Escrow Agent may be required to disburse all or portion of the Escrow Amount (such amount, the "Claim Amount") to Buyer pursuant to this Agreement, then the portion of the Escrow Amount subject to such Claim Notice(s) shall continue to be held by the Escrow Agent until the Claim Amount with respect thereto has been resolved. As soon as any dispute with respect to any Claim Amount has been resolved, Buyer and Seller shall be obligated to instruct the Escrow Agent to disburse such portion of the Escrow Amount, if any, as is required to be disbursed to Buyer pursuant to this Agreement, in connection with such Claim Amount, and the Escrow Agent shall disburse the entire remaining portion of the Escrow Amount, if any, to Seller.

Section 8.7 Set Off. Buyer may offset any rights to indemnification or other amounts payable to Buyer under this Agreement following the Closing against any amounts due or to become due to Seller under this Agreement or any Ancillary Agreement.

ARTICLE IX MISCELLANEOUS

Section 9.1 Notices. All notices, communications and deliveries required or made hereunder must be made in writing signed by or on behalf of the Party making the same, and shall be delivered personally or by email transmission (with confirmation of transmission) or by a national overnight courier service, next Business Day service, or by registered or certified mail (return receipt requested) (with postage and other fees prepaid) as follows:

To Buyer:

Videology Imaging Corporation
c/o inTEST Corporation
804 East Gate Drive
Mt. Laurel, NJ 08054
Attention: Scott Nolen
Email: [REDACTED]

with a copy to:

Cozen O'Connor
200 S. Biscayne Blvd.
Suite 3000
Miami, FL 33131
Attention: Martin T. Schrier
Email: mschrier@cozen.com

To Seller:

Videology Imaging Solutions, Inc.
[REDACTED]

Attn: Carol Ethier, President
Email: [REDACTED]

with a copy to:

Salter McGowan Sylvia & Leonard, Inc.
56 Exchange Terrace, 5th Fl.
Providence, RI 02903
Attn: Arthur J. Leonard, Esq.
Email: aleonard@smsslaw.com

or to such other Representative or at such other address of a Party as such Party may furnish to the other Party in writing in accordance with this Section. Any such notice, communication or delivery shall be deemed given or made (a) on the date of delivery, if delivered in person, (b) upon transmission by email if receipt is confirmed, (c) on the first (1st) Business Day following delivery to a national overnight courier service or (d) on the fifth (5th) Business Day following it being mailed by registered or certified mail.

Section 9.2 Assignment; Successors in Interest. This Agreement may not be assigned by operation of Law or otherwise without the express written consent of Seller, on the one hand, and Buyer, on the other hand, (which consent may be granted or withheld in the sole discretion of Seller or Buyer), as the case may be; provided, however, that Buyer may assign this Agreement and any or all of its rights or obligations hereunder (including Buyer's rights to purchase the applicable Acquired Assets and to seek indemnification hereunder) to one or more Affiliates of Buyer, to any purchaser of Buyer or any of its material assets and, for collateral security purposes, to any lender providing financing to Buyer and all extensions, renewals, replacements, refinancings and refundings thereof in whole or in part, in each such case without the consent of Seller. Any attempted assignment in violation of this Section shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns, and any reference to a Party shall also be a reference to the successors and permitted assigns thereof.

Section 9.3 Governing Law. This Agreement shall be governed and interpreted under the Laws of the State of Delaware without giving effect to any choice of law principles.

Section 9.4 Consent to Jurisdiction and Service of Process. The Parties hereby submit to the exclusive jurisdiction of the state and federal courts located in the State of Delaware in respect of the interpretation and enforcement of the provisions of this Agreement and the Ancillary Agreements (and each Party agrees not to commence any Proceeding relating hereto or thereto except in such courts). The Parties hereby waive, and agree not to assert, any defense in any Proceeding for the interpretation or enforcement of this Agreement or any Ancillary Agreement, that they are not subject to such courts or that such Proceeding may not be brought or is not maintainable in such courts or that this Agreement or any Ancillary Agreement may not be enforced in or by such courts, that the Proceeding is brought in an inconvenient forum, or that the venue of the Proceeding is improper. Service of process with respect thereto may be made upon the Parties by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address as provided in Section 9.1 hereof.

Section 9.5 Waiver of Trial by Jury. THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY PROCEEDING (A) ARISING UNDER THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. THE PARTIES AGREE AND CONSENT THAT ANY SUCH PROCEEDING SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH OF THE PARTIES HEREBY ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 9.5.

Section 9.6 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced as a result of any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated by this Agreement are consummated as originally contemplated by this Agreement to the greatest extent possible. To the extent permitted by Law, each Party hereby waives any provision of Law that renders any such provision prohibited or unenforceable in any respect.

Section 9.7 Counterparts. This Agreement and any Ancillary Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement or any Ancillary Agreement by facsimile, pdf or other electronic transmission will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

Section 9.8 Waiver; Amendment. Any agreement on the part of a Party to any extension or waiver of any provision hereof shall be valid only if set forth in writing signed on behalf of such Party. No waiver or consent, express or implied, by any Party to or of any breach or default by any Party in the performance by such Party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such Party of the same or any other obligations of such Party hereunder. No single or partial exercise of any right or power, or any abandonment or discontinuance of steps to enforce any right or power, shall preclude any other or further exercise thereof or the exercise of any other right or power. Failure on the part of any Party to complain of any act of any other Party or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder until the applicable statute of limitations period has run. This Agreement may not be amended, modified or supplemented except by a written agreement signed by the Parties.

Section 9.9 Entire Agreement. This Agreement, together with the Exhibits hereto, the Disclosure Letter, and the Ancillary Agreements constitute the entire agreement of the Parties relating to the subject matter hereof and thereof and supersede all prior contracts or agreements, whether oral or written, including (a) the Non-Disclosure Agreement dated February 2, 2021 between Buyer and OEM Capital Corp., on behalf of Seller, and (b) the Letter of Intent dated July 13, 2021 between Buyer and Seller. The Exhibits are hereby incorporated into this Agreement and are hereby made a part hereof as if set out in full herein.

Section 9.10 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the Parties and their respective successors and permitted assigns any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement, except as provided in Article VIII. No provision in this Agreement shall modify or amend any other agreement, plan, program, or document unless this Agreement explicitly states that the provision “amends” such other agreement, plan, program or document. This provision shall not prevent the Parties from enforcing any provision in this Agreement, but no other Person shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program or document unless the provision is explicitly designated as such in this Agreement, and the Person is otherwise entitled to enforce the other agreement, plan, program or document. If a Person not entitled to enforce this Agreement brings a lawsuit or other Proceeding to enforce any provision in this Agreement as an amendment to another agreement, plan, program or document, and that provision is construed to be such an amendment despite not being explicitly designated as one in this Agreement, that provision shall lapse retroactively as of its inception, thereby precluding it from having any amendatory effect.

Section 9.11 Reliance on Counsel and Other Advisors. Each Party has consulted such legal, financial, tax, technical and other experts as it deems necessary or desirable before entering into this Agreement. Each Party represents and warrants that it has read, knows, understands and agrees with the terms and conditions of this Agreement.

Section 9.12 Specific Performance. The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, the Parties agree that, in addition to any other remedies, each Party shall be entitled to enforce the terms of this Agreement by a decree of specific performance without the necessity of proving the inadequacy of money damages as a remedy. Each Party hereby waives any requirement for the securing or posting of any bond in connection with such remedy. Each Party further agrees that the only permitted objection that it may raise in response to any action for equitable relief is that it contests the existence of a breach or threatened breach of this Agreement.

Section 9.13 Transaction Costs. Except as otherwise provided in this Agreement, Buyer shall pay the fees, costs and expenses of Buyer incurred in connection with this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby, including the fees, costs and expenses of its financial advisors, accountants and counsel, and Seller shall pay the fees, costs and expenses of Seller incurred in connection with this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby, including the fees, costs and expenses of its financial advisors, accountants and counsel.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be executed as of the date first above written.

BUYER:

Videology Imaging Corporation

By: /s/ Richard N. Grant, Jr.

Name: Richard N. Grant, Jr.

Title: President

SELLER:

Videology Imaging Solutions, Inc.

By: /s/ Carol Ethier

Name: Carol Ethier

Title: President

GUARANTOR:

inTEST Corporation

By: /s/ Richard N. Grant, Jr.

Name: Richard N. Grant, Jr.

Title: President & CEO

OWNER:

By: /s/ Carol Ethier

Name: Carol Ethier

[Signature Page to Asset Purchase Agreement]

The undersigned hereby agree to be a Party to this Agreement and to be bound by the terms of Section 6.10 and Article VIII hereof.

/s/ Carol Ethier
CAROL ETHIER

STEVEN ETHIER IRREVOCABLE TRUST U/T/D 1/2/2002

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

**ANGELA DONAHUE IRREVOCABLE VIDEOLOGY
STOCK TRUST U/T/D 7/31/2020**

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

**AMANDA DONAHUE IRREVOCABLE VIDEOLOGY
STOCK TRUST U/T/D 1/16/2010**

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

**JOSHUA DONAHUE IRREVOCABLE VIDEOLOGY
STOCK TRUST U/T/D 1/16/2010**

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

**ANAVEY ETHIER SWANSON IRREVOCABLE VIDEOLOGY
STOCK TRUST U/T/D 12/31/2013**

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

**SADIRA ETHIER SWANSON IRREVOCABLE VIDEOLOGY
STOCK TRUST U/T/D 12/31/2013**

By: /s/ Carol A. Ethier
Name: Carol A. Ethier
Title: Trustee

[Signature Page to Asset Purchase Agreement]

EXHIBIT A - Working Capital Certificate

EXHIBIT B - Escrow Agreement

EXHIBIT C - Bill of Sale

EXHIBIT D - Assignment and Assumption Agreement

EXHIBIT E - Intellectual Property Assignment

ASSET PURCHASE AGREEMENT

by and among

AMBRELL B.V.
as the Purchaser,

VIDEOLOGY IMAGING SOLUTIONS EUROPE B.V.
as the Seller

and

CAROL ETHIER
as the Guarantor

regarding
the sale and transfer of certain assets of Seller

DATED: 28 OCTOBER 2021

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THE UNDERSIGNED:

I. **Ambrell B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under the laws of the Netherlands, with registered office (*statutaire zetel*) in Almelo, the Netherlands, and its offices at Hölterweg 1, 7556 BS Hengelo, the Netherlands, registered at the Trade Register under file number 57312281 (the '**Purchaser**');

and

II. **Videology Imaging Solutions Europe B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under the laws of the Netherlands, with registered office (*statutaire zetel*) in Uden, the Netherlands, and its offices at Neutronenlaan 4, 5405 NH Uden, the Netherlands, registered at the Trade Register under file number 16089883 (the '**Seller**').

and

III. **Carol Ethier**, an individual that is a United States citizen and resident, with an address of [REDACTED] (the '**Guarantor**').

(The Purchaser and the Seller are collectively also referred to as, the '**Parties**' and each individually as a '**Party**').

WHEREAS:

A. The Seller conducts a business that is a global OEM camera developer and manufacturer serving medical, industrial, government security and other OEMs (the '**Business**'). The Assets and Liabilities as defined in this agreement belong to the Business.

B. The Parties have held discussions and have entered into negotiations regarding the sale and transfer of the Business together with the assets as set out in **Schedule 2** (the '**Assets**') by the Seller to the Purchaser (the '**Transaction**'), which discussions and negotiations have resulted in the execution by Parties of a Letter of Intent (the '**LoI**') dated July 13, 2021.

C. The Seller wishes to sell and transfer the Business together with the Assets and Liabilities to the Purchaser and the Purchaser wishes to purchase and accept the Business together with the Assets and Liabilities from the Seller, under the provisions, conditions and guarantees included in this asset purchase agreement (the '**Agreement**').

D. The Purchaser has performed a limited due diligence investigation in respect of certain aspects of the Business, based on information and documentation made available to the Purchaser in the Data Room (the '**Due Diligence Investigation**'), such with the assistance of professional advisors, to a scope and content satisfactory to the Purchaser.

E. The Parties have obtained all necessary corporate approvals to enter into this Agreement and to complete and execute the Transaction.

F. The Guarantor has agreed to guarantee and otherwise perform the obligations and covenants of the Seller included in this Purchase Agreement.

- G.** The Parties have determined that the provisions of the Dutch Merger Code for the Protection of Interests of Employees (SER Fusie-Gedragsregels 2015) do not apply to this Agreement and the transaction contemplated hereby
- H.** The consent of the Dutch Authority for Consumers and Markets (*Autoriteit Consument en Markt* or *ACM*) is not required with regard to the Transaction contemplated by this Agreement.

NOW HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1** Capitalised words and expressions used in this Agreement, including the preamble, the recitals, any Exhibits and Schedules to it or the Disclosure Letter, have the meanings set out in **Part A of Schedule 1** unless the context clearly requires otherwise. **Part B of Schedule 1** includes provisions regarding the construction and interpretation of this Agreement.
- 1.2** The headings used in this Agreement are included for reference purposes only and shall not constitute a part of this Agreement for any other purpose and shall not affect the interpretation of any of the provisions of this Agreement.

2. SALE AND PURCHASE

- 2.1** On the terms and subject to the conditions of this Agreement, the Seller hereby sells the Business together with the Assets and Liabilities to the Purchaser and undertakes to transfer the same to the Purchaser, and the Purchaser hereby purchases and accepts the Business together with the Assets and Liabilities from the Seller and shall accept the same on the Completion Date.
- 2.2** In implementation of this sale and purchase, as of the Completion Date, the Seller shall transfer the Business as a *'going concern'* to the Purchaser.
- 2.3** The Business and the Assets and Liabilities sold and to be transferred to the Purchaser are deemed to be for Purchaser's risk and account as of the Completion Date, unless this Agreement states otherwise. Consequently, all income and expense regarding and/or resulting from the period up to the Completion Date are at the Seller's risk and account and as of the Completion Date, all income and expenses are at the Purchaser's risk and account.

2.4 The Assets and Liabilities

- 2.4.1** The Assets include all assets owned by the Seller or necessary to operate the Business, including the following:
- (a) all tangible personal property relating to the Business, including all equipment, machinery, vehicles, tools, spare parts, furniture and other personal property of any kind (the **'Furniture and Equipment'**);
 - (b) all inventory relating to the Business, including finished goods, parts, raw materials, supplies and consumables and other inventory (the **'Stock'**);

- (c) all accounts receivable, trade receivables, customer deposits, notes receivable and other receivables at the Business (the '**Accounts Receivable**');
 - (d) the Intellectual Property Rights, including the Trade Names and the internet domain names used in the Business;
 - (e) all rights of Seller under the contracts between the Seller and third parties, which pertain to conducting the Business, including the Quotations specified in **Schedule 2** (the '**Contracts and Agreements**'), unless this Agreement provides otherwise regarding additional rights or rights that have already become due and payable;
 - (f) all hardware and software used in the framework of the Business, as well as all related documentation, contracts with sellers and other rights needed for the proper functioning of those systems ('**ICT systems**'); and
 - (g) all Goodwill of the Business,
- 2.4.2** The Liabilities consist solely of the accounts payable (the '**Accounts Payable**') and Seller's obligations under the Contracts and Agreements,

both as described in the overview attached to this Agreement as **Schedule 2**.

2.5 Excluded Assets

The Parties explicitly agree that the following assets are not part of the present Transaction, are excluded from the Transaction and shall thus remain the property of the Seller:

- (a) all minute books and similar corporate records of Seller;
- (b) the manufacturer representative agreement dated 20 May 2019 entered into by the Seller and Gesa Elektronik San. ve Tic. Ltd. Sti;
- (c) the lease agreement(s) in relation to Seller's current premises located at Neutronenlaan 4 and 6a in Uden and the associated security deposit;
- (d) any and all liabilities not explicitly included in **Schedule 2**;
- (e) all of the Seller's cash and investment securities.

2.6 The Parties will ensure that the Assets and Liabilities comprising the Business are transferred in accordance with the provisions of Clause 6.

3. CONSIDERATION AND PAYMENT

3.1 The consideration for the Assets and Liabilities that the Seller transfers to the Purchaser pursuant to this Agreement amounts to USD 4,800,000.00 (four million eight hundred thousand US Dollars) (the '**Consideration**'), which will be paid by the Purchaser on the Completion Date in full in cash by transferring to the Seller's bank account that was provided by the Seller in writing to the Purchaser prior to the Completion Date; and

3.2 The Seller acknowledges, confirms and unconditionally and irrevocably declares that in paying the Consideration in accordance with the provisions of Clause 3.1, the Purchaser shall have finally and fully settled its obligation to pay the Consideration and such payment shall constitute full discharge (*kwijting*) of the Purchaser's obligation to pay the Consideration.

4. NON-TRANSFERRED ASSETS

- 4.1 The Parties acknowledge and agree that payment of the Consideration is made under the assumption that all Assets and assets owned by Seller otherwise required for the continuation of the Business 'as is' are transferred to the Purchaser in accordance herewith and that – should certain Assets or assets owned by Seller otherwise required for the continuation of the Business 'as is' not be transferred for any reason – the Purchaser shall be indemnified by the Seller for such non-transfer of these assets and any and all damages pertaining thereto, this in addition to any rights that the Purchaser may have under contract or at law, and without prejudice to the provisions of Clause 10 (Wrong Pockets), which remain in full force and effect. The Purchaser is free to – in its sole discretion – invoke its rights under (each and every provision under) contract or at law and invoking its right under one shall not limit its possibility to invoke any other rights available to it.
- 4.2 Notwithstanding Purchaser's right to claim performance of the Seller's obligations under this Agreement, the Seller shall remit to the Purchaser – on a euro-for-euro basis – the value of each Asset (as included in **Schedule 2**) that is not validly transferred to the Purchaser in accordance herewith.
5. **VALUE ADDED TAX**
- 5.1 The Business is sold as a going concern and the Parties take the position that the transfer of the Business is not subject to Dutch Value Added Tax ('VAT'), as the transfer of the Business qualifies as a transfer of a totality of assets or part thereof, as referred to in article 37d of the Dutch VAT Act (*Wet op de Omzetbelasting*). Therefore, the Seller will not charge any VAT in respect of the sale and transfer of the Business or any part thereof under this Agreement other than in accordance with Clause 5.2.
- 5.2 If, contrary to the Parties' position set out in Clause 5.1, the statutory or governmental authority in or outside the Netherlands having the authority to impose or collect tax (the '**Tax Authority**') takes the position that VAT is chargeable on the transfer of the Business or part thereof under this Agreement, the Seller shall be responsible for and will pay any such VAT levied in connection with this Agreement to the competent Tax Authority and the Purchaser shall pay to the Seller the amount of the VAT due, within two (2) weeks after receiving a VAT invoice from the Seller.
- 5.3 With reference to Clause 5.2 above, the Seller shall provide the Purchaser with the cooperation which the Purchaser may reasonably require to challenge the position that VAT is chargeable on the transfer of the Business or part thereof under this Agreement to the extent permissible by the relevant legislation.
- 5.4 Any amounts that are not recoverable by the Purchaser, as well as any and all fines, interest payable and/or penalties attributable to such VAT, shall be paid by the Seller.
6. **COMPLETION**
- 6.1 Completion of this Agreement shall take place remotely on the Completion Date, or as otherwise agreed upon by the Parties.
- 6.2 On the Completion Date, the Parties shall sign, acknowledge and submit all documents which are reasonably required to implement the Transaction in accordance with the provisions of this Agreement. In addition, on Completion, Videology Imaging Corporation and Videology Imaging Solutions, Inc., Affiliates of the Purchaser and the Seller, respectively, shall, and shall procure that the Escrow Agent shall, sign and execute the Escrow Agreement.

- 6.3** The Seller shall transfer title to the Business to the Purchaser on the Completion Date in the following manner:
- 6.3.1** the Furniture and Equipment and the Stock shall be transferred to the Purchaser (i) by enabling the Purchaser to exercise control over the assets mentioned, (ii) through transfer of ownership as referred to in section 3:115 Dutch Civil Code (*Burgerlijk Wetboek*) ('DCC'), or (iii) through transfer of proof of ownership of the movable assets concerned to the Purchaser. In the event that the movable assets as referred to in this Clause are in the custody of a third party, these shall be transferred to the Purchaser on the Completion Date by means of a notification from the Seller - also on behalf of the Purchaser - to the third party instructing the third party to hold the movable assets on behalf of the Purchaser as from the Completion Date;
 - 6.3.2** the Accounts Receivable and the Licences shall be transferred to the Purchaser by the Parties signing the Deed of Assignment, in the form attached as **Schedule 3** and by notifying the relevant third parties of the transfer in the form of the letter attached as **Schedule 4**;
 - 6.3.3** the Intellectual Property Rights shall be transferred to the Purchaser by the Parties signing the Deed of Transfer of Intellectual Property Rights, in the form attached as **Schedule 5** and the Purchaser shall register the transfer in the appropriate registers;
 - 6.3.4** the Purchaser shall take over the Contracts and Agreements and the Liabilities by the Parties signing the Deed of Contract Takeover, in the form attached as **Schedule 6**, and Seller having delivered copies of the notification of the transfer to the Seller's counterparties in the form of the letter attached as **Schedule 4**;
 - 6.3.5** the Purchaser takes over the rights and obligations of the pension policies that the Seller has taken out with the pension insurer by the Parties signing the Deed of Transfer of Pension Agreements, in the form attached as **Schedule 7**, the Seller having delivered a copy of the letter notifying of the takeover to the pension insurer in the form of the letter attached as **Schedule 4** and the pension insurer's explicit cooperation to the take over being evidenced by the signature of the pension insurer of the statement included in **Schedule 7**.
- 6.4** With regard to Clause 6.3.1, the Seller undertakes to hand all documents to the Purchaser and to do all other things required to enable the Purchaser to arrange for transfer of the registration of the vehicles, as part of the Furniture and Equipment, in the name of the Purchaser on the Completion Date. After the transfer of the registration, the Purchaser shall provide the Seller with the certificates of indemnification issued in this regard.
- 6.5** With regard to Clause 6.3.4 above, the Seller shall as soon as possible inform the counterparties to the Contracts and Agreements of the transfer of the Contracts and Agreements to the Purchaser. In the event that a party to a Contract or Agreement fails to approve or cooperate with the transfer, the Parties shall enter into an arrangement, satisfactory to the Purchaser by virtue of which the Purchaser can nevertheless obtain the rights and obligations and the economic advantages and disadvantages under the Contract or Agreement concerned and in which the Purchaser shall be entitled to exercise the rights and fulfil the obligations that result from the Contracts or Agreements concerned on behalf of the Seller.
- 6.6** The Parties acknowledge and confirm that the Seller shall keep the Assets – other than those that cannot be transferred to the Purchaser on or before the Completion Date for whatever reason – at the risk and account of the Purchaser as of the Completion Date and shall transfer these Assets to the Purchaser at the Purchaser's first request as soon as such a transfer can be made or is possible.

- 6.7** The Parties shall perform all acts required to enable the Purchaser to conduct the Business as a *'going concern'* as of the Completion Date. Prior to, but no later than on the Completion Date, the Seller shall have performed all acts and signed all documents that are required to transfer the Business to the Purchaser on the Completion Date free of any and all Encumbrances. The Seller further undertakes to do everything that is reasonably required in connection with fulfilling the Seller's obligations as set out in Clause 6.3. To the extent required, the Seller hereby grants the Purchaser an irrevocable power of attorney to perform the acts concerned in the Seller's name.
- 6.8** If and to the extent that any Assets are delivered to the Purchaser subject to a retention of title, the Seller hereby transfers all its claims, including any future rights in respect of the Assets to the Purchaser as of the Completion Date. The Purchaser shall acquire full title to the Assets concerned as soon as conditions for lifting the retention of title are satisfied. The Seller shall use ensure that such conditions are fulfilled as soon as possible following the Completion Date. This arrangement is without prejudice to the rights of the Purchaser in respect of any claim for a Breach of Warranty.
- 6.9** To the extent that the cooperation of third parties is required for the envisaged transfer of rights and obligations under this Agreement or this transfer is otherwise subject to requirements that have not been or cannot be fulfilled and as a result of which no valid transfer occurs, transfer of beneficial ownership shall be deemed to have taken place as of the Completion Date. Transfer of beneficial ownership means that all income and expenses related to or resulting from the relevant rights and obligations shall be for the Purchaser's risk and account.
- 6.10** In the event that the rights and obligations referred to in Clause 6.9 result from any of the Contracts and Agreements, the Seller shall exclusively exercise the rights and obligations under the Contract or Agreement concerned for and on behalf of the Purchaser. In addition, the Seller shall ensure that any performance received under a Contract or Agreement shall exclusively and immediately accrue to the Purchaser. The Seller hereby instructs the Purchaser to perform all work regarding the Contract or Agreement concerned and – to the extent possible – grants the Purchaser an irrevocable power of attorney to act on the Seller's behalf as the party to the contract. The Purchaser indemnifies the Seller in respect of the fulfilment after the Completion Date of the Contracts and Agreements for which the contract takeover has not yet occurred as of the Completion Date. The Parties undertake towards one another to do everything that may reasonably be necessary or useful for the performance of any such Contract or Agreement at the Purchaser's risk and account.
- 6.11** All costs regarding the transfer, assignment, assumption and/or takeover (as the case may be) relating to the Assets are for everyone's own account and all Taxes related thereto shall be born by the Party incurring such Tax obligation. The closing commission due to OEM Capital Corp is at the Seller's expense.

6.12 Access and control over the Business

- (a) full management and control over the Business;
- (b) the Assets, which are capable of being transferred by delivery (*bezitsverschaffing*);
- (c) such conveyances, transfers, assignments and other documents, duly executed by all parties other than the Purchaser, as may be necessary to transfer the ownership to and/or transfer the Assets and/or the Business to the Purchaser;
- (d) all Know How, all deeds and other documents relating to the Assets and the carrying out of the Business;
- (e) the Administration , all instructional and promotional material, sales publications, advertising materials, terms and conditions and all other material and documents that relate to the Business and/or the Assets;
- (f) full details of all (i) primary elements of remuneration; (ii) secondary elements of remuneration; (iii) number of days' holidays; (iv) number of days' holidays remaining from previous years; (v) bonuses; (vi) premiums; (vii) gratifications; (viii) advantages in excess of those provide by statute or by applicable bargaining agreements or internal arrangements of the Seller;
- (g) all licenses, authorities, powers and/or other rights that the Purchaser requires in order to continue the Business and/or make use of the Assets.

6.13 With regard to Clause 6.12(g) above, the Parties agree that if, and insofar any of the licenses, authorities, powers and/or other rights cannot effectively be transferred or assigned to the Purchaser without the consent of a third party or except by an agreement of novation, then the Seller shall use its best endeavours to obtain such consent and/or procure such novation for the benefit of the Purchaser. Until such consent or agreement of novation has not been obtained, the Seller shall provide all assistance to the Purchaser as the Purchaser may reasonably require enabling it to enforce its rights. The Seller will provide access to all relevant books, documents and/or other information in relation to such required licenses, authorities, powers and/or other rights. If, and insofar any of the licenses, authorities, powers and/or other rights cannot be effectively transferred or assigned to the Purchaser, the Seller will assist the Purchaser with its applications for new licenses, authorities, powers and/or other rights.

6.14 Upon the request of the Purchaser, the Seller shall sign any and all resolutions and/or documents that are or might be required to substantiate the Purchaser's legal title with respect to the Business and/or the Assets.

7. EMPLOYEES

7.1 In the framework of the transfer of the Business, the Employees shall be employed by the Purchaser as of the Completion Date by operation of law pursuant to sections 7:662 *et seq* DCC.

7.2 In implementation of the transfer of the Employees, the Purchaser shall continue the current employment terms of the Employees as included in the Overview of Employment Terms attached as **Schedule 8**.

7.3 The Seller shall indemnify the Purchaser and hold the Purchaser harmless, on a euro for euro basis, from and fully compensate the Purchaser for, any and all losses, costs, claims, damages, and liabilities including interest, penalties and reasonable attorney's fees and disbursements which the Purchaser may suffer, incur or become subject to arising out, or based upon, or otherwise in respect of any and all claims of or in relation to former and present employees and managers (including in relation to pensions) of the Seller to the extent that such losses, costs, expenses, claims, damages and liabilities relate to the period prior to Completion.

7.4 The insurance policies under the pension agreement that the Seller has taken out with the Insurer are transferred to the Purchaser based on Clause 6 by the Parties signing the Deed of Transfer of Pension Agreements, attached as **Schedule 7**.

8. RECORDS

8.1 The Records and the Know-How, the general terms and conditions and all other records and documents pertaining to the Business and the Assets shall be transferred to the Purchaser on the Completion Date by both Parties signing this Agreement, followed by the Seller granting the Purchaser access to all files or databases, both on paper and in digital form, which contain Know-How or are part of the Records.

8.2 Upon request, the Purchaser shall enable the Seller to fulfil its fiscal and statutory bookkeeping and storage obligations, and at the Seller's request, the Purchaser shall make (parts of) the Records available to the Seller, enable the Seller to make photocopies of the same and/or allow inspection agencies, such as the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen*) and the Tax Authorities to examine (parts of) the Records.

9. POST-COMPLETION OBLIGATIONS

9.1 If, at any time after Completion, any further action is necessary or desirable to carry out the purposes of this Agreement, each of the Parties shall take or cause to be taken all such action, including the execution and delivery of such further instruments and documents as may be reasonably requested by any other Party for such purposes.

9.2 Upon the request of the Purchaser, the Seller shall sign any and all resolutions and/or documents that are or might be required to substantiate the Purchaser's legal title with respect to the Business and/or the Assets.

9.3 The Seller agrees to provide the Purchaser, at its request, with any and all information regarding the Business and/or the Assets and the Purchaser will, upon reasonable notice and during reasonable business hours, be allowed access to and permitted to take copies of the books and any other records regarding the Business and/or the Assets.

10. WRONG POCKETS

10.1 If, following Completion, any Party discovers that the transfer to the Purchaser of any Asset has not or has been imperfectly consummated (each, a '**Wrong Pocket Item**'), and any such matter is not expressly otherwise dealt with in this Agreement or any other agreement between the Parties that is entered into on at arm's length terms, the discovering Party shall notify the other Party of that fact as soon as reasonably possible.

- 10.2** Following notification pursuant to Clause 10.1, the Parties shall as soon as reasonably possible do all such things reasonably necessary to effectuate or perfect the transfer or assumption, as the case may be, of a Wrong Pocket Item and, to the extent the co-operation of any third party or a novation agreement is required, use their respective best efforts to obtain any such co-operation, or to procure such a novation agreement in a form reasonably satisfactory to both Parties.
- 10.3** Any transfer or assumption (or novation) pursuant to Clause 10.2 shall be effectuated at the cost and expense (including any non-recoverable taxes arising in respect of or in connection with the effectuation of such solution) of the Seller, for nil consideration and, for the avoidance of doubt, without any amendment to the Purchase Price and any Wrong Pocket Item shall be for the benefit and risk of the Purchaser with effect from Completion, irrespective of the fact that the solution pursuant to Clause 10.2 is effectuated at a later date.
- 10.4** If, following Completion, any Party discovers that the Purchaser has acquired any Asset which the Parties did not intend to transfer under this Agreement, Clauses 10.1 up to and including 10.3 shall apply mutatis mutandis, whereby the transfer of any such Asset by the Purchaser to the Seller shall be effectuated at the cost and expense (including any non-recoverable taxes arising in respect of or in connection with the effectuation of such solution) of the Seller.
- 10.5** If, following Completion, the Seller actually receives amounts or other benefits which relate to any of the Assets and which amounts or benefits should have been transferred to the Purchaser pursuant to this Agreement, the Seller shall, as soon as reasonably possible after becoming aware thereof, transfer the amounts or other benefits to the Purchaser pending which the Seller shall hold the same for the benefit of the Purchaser.
- 10.6** If, following Completion, the Seller receives any documents, invoices, information, correspondence, enquiries, or other communications relating to the Business or any of the Assets, it shall, as soon as reasonably possible, forward the same to the Purchaser (or, if not capable of being forwarded, inform the Purchaser thereof in writing), pending which the Seller shall hold the same for the benefit of the Purchaser. If any such invoices have already been paid by the Seller, the Seller shall attach the evidence thereof as well as a corresponding request to be promptly reimbursed for the relevant invoices and the Purchaser shall reimburse the Seller within for such amount as soon as reasonably and practically possible after the Seller's notification.
- 11. OTHER ARRANGEMENTS**
- 11.1** The Seller shall enable the Purchaser to use all the facilities needed to properly conduct the Business after the Completion Date, including – but not limited to – electricity, water, telephone and lease arrangements, subject to the Purchaser's obligation to arrange for its own facilities as soon as possible, unless the facilities are already part of the Assets to be transferred by virtue of this Agreement.
- 11.2** Guarantor irrevocably and unconditionally guarantees to the Purchaser, and shall be jointly and severally liable as co-principal debtor (*'hoofdelijk aansprakelijk'*) to the Purchaser, for the due and punctual performance and observance of the Seller's and the Seller's assigns obligations, commitments, undertakings, warranties and indemnities arising under or in connection with the Agreement on the terms set out in **Schedule 11**.

12. WARRANTIES

- 12.1 The Seller represents and warrants to the Purchaser that each of the warranties set out in **Schedule 9** (the ‘**Warranties**’) are true, accurate, complete and not misleading, both individually and jointly, at the Signing and on Completion Date.
- 12.2 The Seller acknowledges that the Warranties are material for Purchaser and the trueness, accuracy and completeness of the Warranties is essential to the decision of the Purchaser to conclude the Transaction under the terms and conditions set out in this Agreement and to pay the Consideration.
- 12.3 The Seller represents and warrants towards the Purchaser that it is not aware of any facts, circumstances, data or information regarding the Business and/or the Assets, which are or might be material for the Purchaser in connection with the valuation of the Business and/or which would have influenced the amount of the Consideration, and that no information or data which it knew or reasonably could have known that might be relevant in connection with the conclusion of this Agreement was omitted to be disclosed to the Purchaser or its representatives, and that all such information supplied or provided to the Purchaser or its representatives by or on behalf of the Seller is true, accurate and complete in all respects and not misleading in any way.
- 12.4 The Parties agree that there has not been or will not be a Breach of Warranties if the facts directly underlying such Breach of Warranties have been made known to the Purchaser and/or its advisors in the Disclosure Letter.

13. BREACH OF WARRANTIES

- 13.1 In the event of a breach of any of the Warranties (a ‘**Breach of Warranties**’), the Seller shall be liable towards and compensate the Purchaser for the amount of any and all direct or indirect Damages incurred or suffered by the Purchaser, resulting from or relating to that Breach. The Seller can, in this context, not invoke any right of suspension or set-off, nor can the Seller invoke force majeure.
- 13.2 The Purchaser shall, within a reasonable period of time after becoming aware of a Breach of Warranties, give Notice thereof to the Seller, specifying the Warranty that has been breached and to the extent reasonably possible, the amount of the estimated Damages, accompanied by the information and documentation available on which it is founded. A notification by the Purchaser to the Seller shall in any event be considered to be timely served if served within forty-five (45) calendar days after it has become aware of the relevant Breach of Warranties.
- 13.3 Statutory interest (*wettelijke rente*) shall be charged on the Damages to be paid by the Seller as of the date of the Notice referred to in Clause 13.2 until the moment that the Damages are actually paid by the Seller, which statutory interest shall be paid by the Seller to the Purchaser together with the amount of the Damages.
- 13.4 Any possible compensation of Damages shall be deemed to be a reduction of the Consideration, including for Tax purposes.
- 13.5 The Parties confirm that the Due Diligence Investigation performed by the Purchaser and any information or data provided to the Purchaser or its advisers in the Data Room or otherwise shall not in any way exclude or limit the possibility of the Purchaser to submit a claim to the Seller for compensation of Damages or exclude or limit the liability of the Seller in any way and the Seller shall not be able to invoke (i) any actual, imputed or constructive knowledge of the Purchaser and its advisers of the subject matter of a Breach of Warranties or default, or (ii) any duty of the Purchaser to carry out an investigation, unless and to the extent specifically otherwise agreed upon in this Agreement.

13.6 The Seller hereby irrevocably and unconditionally waives any and all rights and claims that it and any of its Affiliates may have towards the Business or the Employees with regard to misrepresentation, inaccuracy or omission in any information or advice supplied or provided to the Purchaser by or on behalf of the Business, or by the Employees in connection with the conclusion of this Agreement. The Purchaser acknowledges the waiver of rights and claims contained in this clause.

14. LIMITATIONS OF LIABILITY

14.1 The liability of the Seller for Breaches of Warranties shall be limited to an amount equal to ten percent (10%) of the Consideration; provided, however, in the event of the Breach of Warranties in Clauses 6, 7 and 12 of Schedule 9, the limit shall be the Consideration.

14.2 The Seller shall only be liable for an individual Breach of Warranties or connected series of Breaches of Warranties if the Damages resulting from such Breach of Warranties exceeds an amount of USD 25,000 (twenty five thousand US Dollars) and in that event the Seller shall be liable for the whole amount of the Damages and not merely the amounts in excess of USD 25,000 (twenty five thousand US Dollars).

14.3 Subject to Clause 14.4 below, the liability of the Seller for Breaches of Warranties shall lapse if the Purchaser has not held the Seller liable within eighteen (18) months following the Completion Date.

14.4 Notwithstanding the foregoing, if, within the applicable claims period set out in Clause 14.3, the Seller has been notified of a Breach of Warranties and such claim has not yet been finally resolved or disposed of at such date, such Claim shall survive the aforesaid time period and shall remain a basis for compensation of Damages hereunder until such claim is finally resolved or disposed of.

14.5 The limitations on the liability of the Seller set out in the preceding sub-clauses of this Clause 14 shall not apply in case of fraud, default, failure to fully disclose and/or negligent conduct by the Seller in relation to the matter giving rise to a Breach of Warranties.

15. DEDUCTIONS

15.1 When assessing the Damages incurred by the Purchaser, as referred to in Clause 14 each compensation for Damages shall be reduced with:

- (i) any amount of Tax saving or refund that the Purchaser has actually received in connection with the circumstances that caused the Damages;
- (ii) any amount of insurance money actually received by the Purchaser in connection with such circumstances;
- (iii) any amount that has been actually recovered from any third party in connection with such circumstances;

provided that these deductions are not yet expressed in the amount of the compensation of Damages.

16. THIRD PARTY CLAIMS

- 16.1** If a claim for Breach of Warranties of the Purchaser against the Seller under this Agreement is based on a claim by a third party against the Purchaser, the Purchaser shall take action to defend such claim. The Purchaser shall therein give reasonable consideration to Seller's interest in minimising any compensation to be paid to the third party and the Purchaser's interest in maintaining a sound business relationship between Purchaser and the third party.
- 16.2** The Purchaser shall reasonably inform the Seller as regards the third party claim and shall consult the Seller on any settlement or other negotiation result in this respect, provided the Purchaser shall at all times be allowed to settle or waive a third party claim as referred to in this Clause at its discretion and without the consent of the Seller.

17. INDEMNITIES

- 17.1** The Seller shall fully indemnify and hold the Purchaser harmless from and against (*volledig schadeloos stellen en vrijwaren*) any and all Damages, claims, losses, liabilities, direct damages, costs and expenses incurred by the Purchaser and all and any negative effects sustained by the Purchaser in respect of:
- (i) any breach of any representation or warranty of Seller contained in this Agreement;
 - (ii) any breach of any agreement by Seller contained in this Agreement; ; and
 - (iii) the ownership, operation or use of the Assets or the operation of the Business on, or prior to, the Completion Date.
- 17.2** For the avoidance of doubt the limitations of liability set out in Clause 14 shall not be applicable to Clause 17.1 but only to a Breach of Warranties.

18. PROTECTIVE COVENANTS

- 18.1** In connection with the compensation for the Goodwill and any other goodwill and knowhow included in the Consideration, as well as in connection with the preservation of such goodwill and knowhow, the Seller and Guarantor shall not, for a period of three (3) years following the Completion Date, without the prior written consent of the Purchaser, in the countries where the Business is active, whether directly or indirectly, and whether individually or jointly with another person, or on its own behalf or on behalf of another person, be engaged in the following activities:
- (i) carry on, be engaged or concerned in, or otherwise have an interest in, any business, which competes or is likely to compete with the Business; or
 - (ii) solicit or entice the custom of, in relation to any goods or services supplied by the Seller:
 - (a) any person with whom dealings have been made by the Seller and
 - (b) who was a customer of or in the habit of dealing with the Seller or was canvassed by the Seller at any time during the period of one (1) year prior to the Completion Date; or
 - (c) use its, knowledge of, or influence over, any customer or potential customer of the Seller to the detriment of the Purchaser; or

- (d) use its, knowledge of, or influence over, any customer or potential customer of the Seller for its or his own benefit or for the benefit of any other person carrying on business in competition or potential competition with the Business; or
- (e) solicit or endeavour to entice away, offer employment or employ, or offer or conclude any contract for services with any of the transferring Employees; or
- (f) seek to contract with or engage any person who has contracted with or engaged to manufacture, assemble, supply or deliver products or goods, materials or services to the Business or at any time during the period of one (1) year prior to the Completion Date.

18.2 Each of the Seller and Guarantor agrees and undertake that it shall not, whether individually or jointly with another person and whether directly or indirectly do or say anything which is likely or intended to damage the goodwill or reputation of the Purchaser or which may lead any person to cease to do business with the Purchaser on substantially equivalent terms to those previously offered or lead any person not to engage in business with the Purchaser.

18.3 Each of the Seller and Guarantor acknowledges that:

- (i) each of the preceding sub-clauses of this Clause constitutes an entirely separate and independent restriction; and
- (ii) the duration, extent and application of each of the restrictions are no greater than is necessary for the protection of the goodwill, know-how and confidential information of the Business.

18.4 Each of the Seller and Guarantor hereby acknowledges and confirms that irreparable damage could occur, and the Purchaser's remedies at law could be inadequate, if each and every of the preceding obligations of this Clause were not to be performed or observed strictly in accordance therewith.

18.5 Each of the Guarantor and the Seller shall be responsible and liable for any breach of the provisions laid down in this Clause by any of its Affiliates, regardless of how such breach was caused.

19. CONFIDENTIALITY AND ANNOUNCEMENTS

19.1 The Parties undertake, and shall direct their directors, officers, employees, representatives and agents who have knowledge of the contemplated Transaction to undertake not to, at any time subsequent to this Agreement, divulge or communicate to any company, person or entity, any information of a confidential nature concerning (i) this Agreement, (ii) the prior negotiations, and (iii) the business, affairs, accounts, dealings, transactions, customers, suppliers or business relationships of any of the other Parties, and in case of the Seller concerning the Business and the Assets, except:

- (i) to the extent required by law or any competent governmental authority after consultation with the respective other Parties;
- (ii) to its professional advisers under conditions of confidentiality and only to the extent necessary for any lawful purpose; or
- (iii) to the extent that such information is at the date hereof or hereafter becomes, public knowledge otherwise than through improper disclosure by any person.

19.2 No announcement or press release regarding the Transaction or any element thereof shall be made or issued other than with the prior approval of each of the Parties in respect of the contents of and timing of release of such announcement or press release.

20. PAYMENTS

20.1 Except for the Consideration and if expressly otherwise provided, all payments to be made under this Agreement shall be made in US Dollar currency (whereby currency risks are for the party making the payment) into the bank accounts of the Parties as notified to the other Parties.

20.2 Except as expressly otherwise provided in this Agreement, if a Party defaults in the payment when due of any sum payable under this Agreement, it shall pay statutory interest at the then applicable rate on that sum from the date on which payment is due until the date of actual payment, which interest shall accrue from day to day and be compounded monthly.

20.3 All payments made by the Seller under this Agreement shall be made free of any counterclaim or set-off and without any deduction or withholding of any kind other than any deduction or withholding required by law. If the Seller is required by law to make a deduction or withholding in respect of any sum payable under this Agreement, the Seller shall pay to the Purchaser or the relevant Company such additional amounts (gross-up) as are necessary to ensure receipt by the Purchaser of the full amount which would have been received if such deduction or withholding had not taken place.

21. SECURITY

21.1 The Escrow Amount shall serve as security for all potential payment obligations of the Seller to Purchaser hereunder and the Escrow Agent shall hold and release the Escrow Amount in accordance with the Escrow Agreement.

22. NOTICES

22.1 Any Notice pursuant to or in connection with this Agreement shall be given by registered mail or by e-mail, to the addresses of the Parties as set out in the heading of this Agreement or to the email address [REDACTED] if to Seller, to [REDACTED] Guarantor and [REDACTED] to Purchaser.

22.2 Each of the Parties is entitled to notify the other Party of another address to which any notice should be sent.

22.3 A notice served by the sending Party shall only have effect towards the receiving Party if the sending Party can produce the following documents:

- (i) a notice of receipt if sent by registered mail; and
- (ii) a digital receipt of successful delivery if sent by email.

22.4 All Notices, demands, requests, statements, certificates and other documents and communications related to this Agreement shall be in English.

23. ASSIGNMENT

23.1 None of the Parties shall be entitled to assign (or cause to be transferred, whether by specific or general title) this Agreement or any of its rights hereunder, or transfer any of its duties or obligations under this Agreement, or create any Encumbrance on its rights hereunder, without the prior written consent of the Seller (in case of assignment by the Purchaser) or the Purchaser (in case of assignment by the Seller), provided that the Purchaser shall be entitled:

- (i) for the purpose of providing security for its obligations under the debt financing agreements in connection with the completion of the Transaction, to create an Encumbrance on all or certain of its rights under this Agreement;
- (ii) to assign this Agreement to any of its Affiliates, including prior to Completion.

23.2 Other than the specific assignments as permitted under this Clause or otherwise specifically permitted under this Agreement, any assignments, transfer or Encumbrance in contravention of this Clause shall be deemed to be null and void.

24. MISCELLANEOUS

24.1 This Agreement together with the Exhibits and Schedules and all other documents that are signed on the Completion Date constitutes the entire agreement between the Parties regarding the Transaction and replaces all prior agreements, arrangements, understandings and statements, whether oral or written including the LoI.

24.2 Amendments to this Agreement are only possible and effective to the extent that all Parties have agreed thereto in writing.

24.3 A failure by a Party to exercise a right under this Agreement or a delay thereof shall not operate as a waiver of such right. No single or partial exercise of a right under this Agreement by a Party shall preclude any other or further exercise of such right or other rights.

24.4 This Agreement is concluded for the benefit of the Parties and their respective successors and permitted assigns and nothing in this Agreement is intended to nor shall implicitly confer upon any other person any legal or equitable right, benefit or remedy, except to the extent explicitly stated otherwise in this Agreement. In the event this Agreement must be deemed to contain third party stipulations, and such stipulation has been accepted by a third party, this third party shall not become a party to this Agreement.

24.5 If one or more provisions of this Agreement are held to be void (*nietig*) or voidable (*vernietigbaar*) and consequently invalid and unenforceable under applicable law, such invalid and unenforceable provisions shall be deemed to have been replaced by a provision which as closely as possible corresponds with the contents of the unenforceable provisions and which meets the original intention of the Parties when concluding the Agreement and their mutual understandings in respect of such provision. The remaining provisions of this Agreement remain fully effective. The invalid provision shall be deemed to be excluded from this Agreement and this Agreement shall be interpreted as if such invalid provision were so excluded.

- 24.6 Except as expressly otherwise provided in this Agreement and except in the event of fraud (*bedrog*), the Parties hereby waive their rights under sections 6:265 up to and including 6:272 DCC and section 6:228 DCC to rescind (*ontbinden*) or annul (*vernietigen*) all or part of this Agreement, as the case may be, or to institute legal proceedings for the annulment or rescission of all or part of this Agreement. The Parties hereby furthermore waive their right to terminate this Agreement or institute legal proceedings on the grounds of section 6:230 DCC demanding that all or part of this Agreement be amended.
- 24.7 This Agreement may be entered into in any number of counterparts and by each of the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart, when executed, shall constitute an original, but all the counterparts shall together constitute one and the same instrument.
- 24.8 Except as expressly otherwise provided, each of the Parties involved in this Agreement shall bear its own costs.
25. **GOVERNING LAW AND DISPUTE RESOLUTION**
- 25.1 This Agreement and the documents to be entered into pursuant to it, shall be governed by and construed in accordance with the laws of the Netherlands.
- 25.2 All disputes (contractual or non-contractual) arising out of or in connection with this Agreement or further agreements resulting thereof shall be settled in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (*Nederlands Arbitrage Instituut*). The arbitral tribunal shall be composed of one (1) arbitrator. The place of arbitration shall be Amsterdam, the Netherlands. The procedure shall be conducted in the English language. The Netherlands Arbitration Institute is not allowed to have the arbitral award published.

(Signature page to follow)

THUS AGREED and signed in Uden, Netherlands on October 28, 2021.

Ambrell B.V.

/s/ Scott Nolen
Name: Scott Nolen
Position: Director

Videology Imaging Solutions Europe B.V.

/s/ Carol Ethier
Name: Carol Ethier
Position: Director

As Guarantor of the obligations of Videology Imaging Solutions Europe B.V.:

s/ Carol Ethier
Name: Carol Ethier

[Signature Page to Asset Purchase Agreement]

Schedule 1 Part A– DEFINITIONS

Accounts Receivable	means the accounts receivable, as specified in Schedule 2;
Affiliate	means: (i) each subsidiary of a person or company in the meaning given in section 2:24a DCC; (ii) in relation to any person other than an individual, any person which is Controlled by, Controls or is under common Control with, such person; and (iii) in relation to an individual, their close relatives. For the purposes of this definition, close relatives means: (a) his spouse, parents, siblings and children (including step children); (b) the trustees, acting in their capacity as such trustees, of any trust of which the individual or any of their close relatives is a beneficiary, or in the case of a discretionary trust, is a discretionary object; and (c) any person of which the individual and/or their close relatives have Control;
Agreement	has the meaning given in Recital C;
Assets	means all assets used by the Seller for the purposes of conducting the Business, as described in detail in Clause 2.4 and Schedule 2;
Bank Accounts	means the bank accounts of the Business specified in Schedule 2;
Breach of Warranties	means the event that one or more of the Warranties is untrue, inaccurate, incomplete or misleading as at the Signing Date or the Completion Date;
Business	has the meaning given in Recital A;
Business days	means Monday through Friday, except the legal public holidays
Completion Amount	has the meaning given in Clause 3.1.1;
Completion	means the transfer of the Business, together with the Assets and Liabilities by the Seller to the Purchaser against the payment of the Consideration, all in accordance with the terms and conditions of this Agreement;
Completion Date	means the date of this Agreement, or another date agreed upon in writing by the Parties;
Consideration	means the Consideration of USD 4,800,000.00 (four million eight hundred thousand US Dollars), which the Purchaser is to pay to the Seller on the Completion Date in accordance with the relevant provisions of Clause 3;
Contracts and Agreements	means the contracts between the Seller and third parties, which pertain to conducting the Business, including the Quotations specified in Schedule 2;
Control	means: (i) the ownership or control (directly or indirectly) of more than 50% of the ownership interests of the relevant person; or (ii) the right to appoint or remove (or the ability (whether in law or fact) to direct the appointment or removal of) the members of the governing body of the relevant person holding a majority of the voting rights at meetings of the governing body on all, or substantially all, matters;

Damages	means the amount of any and all direct or indirect damages incurred or suffered by the Purchaser or any of its Affiliates, resulting from or relating to a Breach, required to bring the Purchaser in the position in which the Purchaser would have been, had the relevant Breach not occurred, including (i) any direct and indirect, consequential and derived (affiliate) damages; (ii) loss of profit; and (iii) all costs and expenses made and incurred by the Purchaser or any of its Affiliates in connection therewith (including the fees of external advisors and legal counsel);
Data Room	means the Project Sasson inTEST data room set up on behalf of Seller in a virtual data room hosted by Firmex;
DCC	means the Dutch Civil Code (<i>Burgerlijk Wetboek</i>);
Deed of Assignment	means a private deed of assignment to transfer the Accounts Receivable and, in as far as capable of transfer, the Licences, substantially in the form attached as Schedule 3;
Deed of Contract Takeover	means a private deed of contract takeover to take over the Contracts and Agreements, substantially in the form attached as Schedule 6;
Deed of Transfer of Intellectual Property Rights	means a private deed to transfer the Intellectual Property Rights, substantially in the form attached as Schedule 5;
Disclosure Letter	means the disclosure letter delivered by Seller to Purchaser concurrently with the execution and delivery of this Agreement;
Dispute	has the meaning given in Clause 25.2;
Due Diligence Investigation	has the meaning given in Recital D;
Employees	means the directors, whether employed by the Business or not, and all other persons working for the Business as of the Completion Date, an exhaustive list of whom has been provided as Schedule 8;
Encumbrances	means a mortgage, charge, pledge, lien or any other security interest of any kind (<i>zakelijk zekerheidsrecht</i>) or the commitment to create any of the foregoing;
Escrow Agent	means the US-based escrow agent, J.P. Morgan Chase Bank, N.A.;
Escrow Agreement	means the escrow agreement, sufficiently known;
Escrow Amount	means an amount of USD 480,000.00; funded by Seller's Affiliate, Videology Imaging Solutions, Inc., to secure the indemnification obligations of Seller to Purchaser set forth in this Agreement.
Furniture and Equipment	means the furniture and equipment used by the Seller for the Business, as specified in Schedule 2;
GAAP	means the General Accepted Accounting Principles;

Guaranteed Obligations	has the meaning given in Schedule 11;
Goodwill	means the Seller's goodwill with respect to the Business, including the Records and Know How, as well as the exclusive right for the Purchaser to present itself as the party continuing the Business, in which the Intellectual Property Rights are used;
ICT systems	means the hardware and software used in the framework of the Business, as well as all related documentation, contracts with sellers and other rights needed for the proper functioning of those systems;
Intellectual Property Rights	means the intellectual property rights, including copyrights, trademarks, Trade Names, and proprietary technology of the Business or relating to the Business, as specified in Schedule 2;
Know How	all commercial information and techniques regarding the Business and/or the Assets, which are not in the public domain, including but not limited to information concerning the marketing and products or services – including customer and supplier lists, sales statistics, survey reports, customer data base and market share data -, and any data, specifications, experience, manuals and instructions pertaining to the Assets;
Liabilities	means the accounts payable by the Seller as specified in Schedule 2;
LoI	means the letter of intent that Parties concluded on July 31, 2021;
Material Adverse Effect	means any event, change or circumstance that has had a material adverse effect on (a) the Business or the value of the Assets, or (b) the ability of Seller to perform any of its obligations under this Agreement;
Notice	means a notice given by one Party to another Party under this Agreement as set out in Clause 22;
Overview of Employment Terms	means the overview specifying all terms of employment of the Employees, as attached to this Agreement as Schedule 8;
Parties or Party	has the meaning given in the introduction to this Agreement;
Purchaser	has the meaning given in the introduction to this Agreement;
Quotations	means all written offers made by the Seller for the activities of the Business, listed in Schedule 2;
Records	means the records pertaining to the activities of the Business, including the related books, documents and other data carriers;
Rules	has the meaning given in Clause 25.2;
Seller	has the meaning given in the introduction of this Agreement;
Signing Date	means the date on which this Agreement is signed;
Stock	means the stock that the Seller maintains for the Business as listed in Schedule 2;

Tax Authority	means any statutory or governmental authority in or outside the Netherlands having the authority to impose or collect Tax;
Taxes	means all forms of local and national taxes, duties, levies, social security contributions or other imposts or withholdings imposed by or payable to any Tax Authority whether direct or indirect, chargeable or attributable directly or primarily to the Business and irrespective of any such taxes, duties, levies, social security contributions or other imposts or withholdings being recoverable from any other person and including penalties, additions, interest, costs and expenses and any payment obligation by way of reimbursement, recharge, indemnity or damages relating to such taxes, duties, levies, social security contributions or other imposts or withholdings;
Trade Names	means the trade names used by the Seller in connection with conducting the Business, specified in Schedule 2;
Transaction	has the meaning given in Recital B;
VAT	means Dutch Value Added Tax (<i>btw</i>);
Warranties	means the warranties included in Schedule 9;
Wrong Pocket Item	has the meaning given in Clause 10.1.

Schedule 1 PART B – INTERPRETATION

1. In this Agreement:
 - (a) the singular includes the plural and vice versa, and each gender includes the other genders;
 - (b) the words 'as of' shall be deemed to include the day or moment in time specified thereafter;
 - (c) a 'third party' means any person or entity other than the Seller, the Purchaser or the Company;
 - (d) references to 'writing' shall include any communication in the written form, whether by letter, fax or a scanned and signed document sent by e-mail;
 - (e) the words 'include', 'including' and 'includes' shall be deemed to be followed by the words 'without limitation';
 - (f) references to any time of the day are to CET time;
 - (g) the headings used are included for reference purposes only and shall not affect the interpretation of this Agreement;
 - (h) references to legislation are references to legislation as applicable at the time this Agreement was concluded;
 - (i) references to Clauses, Exhibits or Schedules or the Disclosure Letter are, unless otherwise indicated, references to Clauses, Exhibits or Schedules to this Agreement or the Disclosure Letter; and
 - (j) references to books and records are to the books and records (*administratie*) stored in any form.
 2. The preamble, recitals, Exhibits or Schedules to this Agreement and the Disclosure Letter form an integral part of this Agreement, shall have the same force and effect as any other provisions of this Agreement and shall be construed and interpreted accordingly.
 3. The Parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement and no provision of this Agreement shall be interpreted against a Party solely as a result of the fact that such Party was responsible for the drafting of such a provision.
 4. Any statement in this Agreement which refers to the knowledge, information, belief or awareness of Seller – including the expressions “*to Seller’s best knowledge*” and “*known to Seller*” – or any similar expression, shall be deemed to refer to the knowledge, information, belief and/or awareness that the Seller had or could have reasonably had after due and careful consideration and enquiry of all Employees having knowledge of the relevant matters.
 5. Where any obligation is qualified or phrased by reference to use “*reasonable endeavours*”, “*best efforts*” or wording of a similar nature, it means the efforts that a person desirous of achieving a result would use in similar circumstances to ensure that such result is achieved as expeditious as possible and, regard shall be had, among other factors, to (i) the price, financial interest and other terms of the obligation; (ii) the degree of risk normally involved in achieving the expected result; and (iii) the ability of an unrelated person to influence the performance of the obligation.
 6. This Agreement is drafted in the English language. In this Agreement Dutch terms and legal concepts are expressed in English terms and not in their original Dutch terms. Where indicated in italics, Dutch equivalents of these English terms have been given. Terms and expressions of law and of legal concepts as used in this Agreement have the meaning attributed to them under the laws of the Netherlands and this Agreement should be read and interpreted accordingly.
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Schedule 2 LIST OF ASSETS AND LIABILITIES

Schedule 3 DEED OF ASSIGNMENT

Schedule 4 NOTICE OF ASSIGNMENT / ASSIGNMENT OF DEBTS & TAKEOVER OF CONTRACT

Schedule 5 DEED OF TRANSFER OF INTELLECTUAL PROPERTY RIGHTS

Schedule 6 DEED OF ASSIGNMENT OF DEBTS AND CONTRACT TAKEOVER

Schedule 7 DEED OF TRANSFER OF PENSION AGREEMENTS

Schedule 8 OVERVIEW OF EMPLOYMENT TERMS

Schedule 9 WARRANTIES

Schedule 11 GUARANTEE

JOINDER AND AMENDMENT TO AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT

THIS JOINDER AND AMENDMENT TO AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT (the “**Amendment**”) is effective as of October 28, 2021 (“**Effective Date**”), by and between **INTEST CORPORATION**, a Delaware corporation, (“**Borrower**”), **AMBRELL CORPORATION**, a Delaware corporation, **INTEST SILICON VALLEY CORPORATION**, a Delaware corporation, **INTEST EMS, LLC**, a Delaware limited liability company, **TEMPTRONIC CORPORATION**, a Delaware corporation (individually and collectively, jointly and severally, the “**Original Guarantors**”), and **VIDEOLOGY IMAGING CORPORATION**, a Delaware corporation (“**Videology**” and together with Original Guarantors, individually and collectively, jointly and severally, the “**Guarantors**”) and **M&T Bank** (together with its successors and assigns, “**Bank**”).

BACKGROUND

- A.** Borrower, Original Guarantors and Bank have previously entered into a certain Amended and Restated Loan and Security Agreement dated October 15, 2021 (as amended and as it may be further amended, supplemented or restated from time to time, the “**Loan Agreement**”), pursuant to which, inter alia, Bank agreed to extend to Borrower certain credit facilities subject to the terms and conditions set forth therein.
- B.** Borrower has requested and Bank has agreed to amend the terms of the Loan Agreement in accordance with the terms and conditions hereof.
- C.** Capitalized terms used herein and not otherwise defined in this Amendment shall have the meanings set forth therefor in the Loan Agreement.

NOW THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

- 1. Approval of Videology Acquisition as a Permitted Acquisition under the Term Loan.** Borrower has requested and Bank has agreed to approve Borrower’s acquisition of Videology (“**Videology Acquisition**”) as a Permitted Acquisition under the Term Loan. Videology will be holding the assets acquired through the Videology Acquisition.
- 2. Joinder.** Videology hereby agrees that (a) effective as of the date hereof, it is hereby and shall be deemed to be a Guarantor under the Loan Agreement, Surety Agreement and all other Loan Documents to which Original Guarantors are parties, and (b) from the date hereof until payment in full of the Obligations and termination of the Loan Agreement, Videology has assumed the obligations of a Guarantor under, and Videology shall perform, comply with and be subject to and bound by, jointly and severally with each of the Original Guarantors, each of the terms, provisions, conditions and waivers of the Loan Agreement, Surety Agreement and other Loan Documents which are stated to apply to or are made by a Guarantor, to the same extent as it were an original signatory thereto. Without limiting the generality of the foregoing, Videology hereby represents and warrants to Bank that (x) each representation made by Original Guarantors in the Loan Agreement are true and correct as to Videology on and as of the date hereof, and (y) Videology has heretofore received a true and correct copy of the Loan Agreement, Surety Agreement and other Loan Documents as in effect on the date hereof.

3. **Amended Definitions.** The following defined term in **Section 1.1** of the Loan Agreement is hereby amended and restated in their entirety to read as follows:

“**Guarantor** means Ambrell Corporation, a Delaware corporation, inTEST Silicon Valley Corporation, a Delaware corporation, inTEST EMS, LLC, a Delaware limited liability company, Temptronic Corporation, a Delaware corporation, and Videology Imaging Corporation, a Delaware corporation, individually, and **Guarantors** means Ambrell Corporation, a Delaware corporation, inTEST Silicon Valley Corporation, a Delaware corporation, inTEST EMS, LLC, a Delaware limited liability company, Temptronic Corporation, a Delaware corporation, and Videology Imaging Corporation, a Delaware corporation, collectively, and their respective successors and assigns.”

4. **FEIN. Section 10.22** of the Loan Agreement is hereby amended and restated in its entirety to read as follows:

“**10.22 FEIN.** The FEIN and state organizational number of each Obligor is:

NAME	Tax ID/FEIN Number	Government/State Organizational Number	State of Incorporation
inTEST Corporation	22-2370659	2726308	Delaware
Ambrell Corporation	16-1271448	5695927	Delaware
inTEST Silicon Valley Corporation	94-3043339	2916520	Delaware
inTEST EMS, LLC	83-2411891	7130712	Delaware
Temptronic Corporation	52-2222202	3142413	Delaware
Videology Imaging Corporation	87-2955379	6283703	Delaware

5. **Amended and Restated Term Note.** Coincident with the execution of this Amendment, Borrower shall execute and deliver to Bank an (i) Amended and Restated Delayed Draw Term Note 1 in the original principal amount of \$12,000,000 and (ii) Amended and Restated Delayed Draw Term Note 1A in the original principal amount of \$13,000,000 (each an “**Amended and Restated Note**”). The Amended and Restated Notes shall be in form and content acceptable to Bank and re-evidence the existing indebtedness of Borrower to Bank under that certain Delayed Draw Term Note dated October 15, 2021 in the original principal amount of \$25,000,000 (the “**Prior Note**”). All references to the Term Notes in the Loan Agreement and other Loan Documents shall be deemed to be references to the Amended and Restated Notes. The parties hereby expressly acknowledge and agree that the Amended and Restated Notes merely re-evidences the indebtedness evidenced by the Prior Note and is given in substitution of and not as payment of the Prior Note.

6. **Updated Schedules.** The Schedules to the Loan Agreement are hereby amended and replaced, in its entirety, with Schedules attached hereto as Exhibit A.

7. **Confirmation of Collateral.** Nothing contained herein shall be deemed to be a compromise, satisfaction, accord and satisfaction, novation or release of any of the Loan Documents, or any rights or obligations thereunder, or a waiver by Bank of any of its rights under the Loan Documents or at law or in equity. All liens, security interests, rights and remedies granted to Bank in the Loan Documents are hereby ratified, confirmed and continued.

8. **Covenants, Representations and Warranties.** Borrower and Guarantors (as applicable to itself) hereby:

8.1 ratifies, confirms and agrees that the Loan Agreement, as amended by this Amendment, and all other Loan Documents are valid, binding and in full force and effect as of the date of this Amendment, and enforceable in accordance with their terms.

8.2 agrees that it has no defense, set-off, counterclaim or challenge against the payment of any sums owed or owing under the Loan Documents or the enforcement of any of the terms of the Loan Documents.

8.3 ratifies, confirms and continues all liens, security interests, pledges, rights and remedies granted to Bank in the Loan Documents and agrees that such liens, security interests and pledges shall secure all of the Obligations under the Loan Documents as amended by this Amendment.

8.4 represents and warrants that all representations and warranties in the Loan Documents are true and complete as of the date of this Amendment.

8.5 agrees that its failure to comply with or perform any of its covenants or agreements in this Amendment will constitute an Event of Default under the Loan Documents.

8.6 represents and warrants that no condition or event exists after taking into account the terms of this Amendment which would constitute an Event of Default (or will, upon the giving of notice or the passage of time, or both constitute an Event of Default).

8.7 represents and warrants that the execution and delivery of this Amendment by Borrower and Guarantors and all documents and agreements to be executed and delivered pursuant to this Amendment:

(a) have been duly authorized by all requisite corporate, company and/or partnership action of Borrower and Guarantors, as applicable;

(b) will not conflict with or result in a breach of, or constitute a default (or with the passage of time or the giving of notice or both, will constitute a default) under, any of the terms, conditions, or provisions of any applicable statute, law, rule, regulation or ordinance or any Borrower's or Guarantor's Governing Documents or any indenture, mortgage, loan or credit agreement or instrument to which any Borrower or Guarantor is a party or by which such may be bound or affected, or any judgment or order of any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign; and

(c) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of any Borrower or Guarantor under the terms or provisions of any such agreement or instrument, except liens in favor of Bank.

9. Conditions. The obligation of Bank to enter into this Amendment is subject to the fulfillment, to the satisfaction of Bank, of each of the following conditions, and all agreements, documents and other items must be in form, content and in all other respects satisfactory to Bank in its sole discretion. Bank is not waiving a breach of any warranty or representation made by any Borrower or Guarantor hereunder or under any agreement, document, or instrument delivered to Bank or otherwise referred to herein, and any claims and rights of the Bank resulting from any breach or misrepresentation by any Borrower or Guarantor are specifically reserved by the Bank.

9.1 Searches. Bank shall have received copies of record searches (including UCC searches, patent searches, trademark searches, copyright searches and judgments, suits, bankruptcy, litigation, tax and other lien searches) against each Videology.

9.2 Executed Documents. Borrower, Guarantors and all other required persons and entities will have executed and delivered to Bank:

- (a) this Amendment;
- (b) the Amended and Restated Notes;
- (c) the Amended and Restated Surety Agreement;
- (d) the Amended and Restated Assignment of Patents, Trademarks, Copyrights and Licenses Security Agreement;
- (e) the UCC-3 financing statement;
- (f) the Collateral Access Agreement (post closing);
- (g) the Post Closing Letter Agreement; and
- (h) and such other documents, as the Bank may reasonably require.

- 9.3 **Representations and Warranties.** All representations and warranties of Borrower and Guarantors set forth in the Loan Documents shall be true at and as of the date hereof.
- 9.4 **No Default.** No condition or event shall exist or have occurred which would constitute a default or an Event of Default hereunder or under the Loan Agreement.
- 9.5 **Advance Request.** Borrower requests an Advance under the Term Loan in writing, which request shall set forth in reasonable detail the target of the proposed Permitted Acquisition, the type of acquisition, a copy of the related purchase agreement; the criteria establishing the qualifications as a Permitted Acquisition set forth in Section 1.1 of the Loan Agreement, the amortization period elected for such Loan, information regarding the formation of any new subsidiary in anticipation of such acquisition including, but not limited to ownership name and structure, type of organization, state of formation, operating agreement/articles of incorporation, organizational document number, federal tax identification number, authorized signatories and such other information as reasonably requested by Bank and in such form and content acceptable to Bank.
- 9.6 **Good Standing Certificate.** Bank shall have received a certificate of good standing with respect to Videology, dated within 30 days of the Effective Date of this Amendment, such certificate to be issued by the appropriate officer of each jurisdiction in which Videology is required to be qualified or licensed which certificates shall indicate that Videology is in good standing in such jurisdiction.
- 9.7 **Authorizing Resolutions.** Bank shall have received a certificate from the Secretary of each Videology attesting to the resolutions of each Videology's Board of Directors authorizing its execution, delivery, and performance of this Amendment and the other Loan Documents to which Videology is a party and authorizing specific officers of Videology to execute the same.
- 9.8 **Governing Documents.** Bank shall have received copies of each Videology's Governing Documents, as amended, modified, or supplemented to the Effective Date of this Amendment, certified by the Secretary of Videology.
- 9.9 **Licenses, Approvals, Etc.** Bank shall have received copies of all material licenses, approvals, consents, authorizations and filings of Videology required or necessary for the operation of its Business.
- 9.10 **Material Agreements.** Bank shall have received copies of all material agreements, leases and other documents related to Videology.
- 9.11 **KYC Documentation.** Bank shall have received, sufficiently in advance of closing, all "Know your customer" documentation and other governing documents, required by Bank in accordance with all applicable banking laws and regulations in effect from time to time, including without limitation, the USA PATRIOT Act.
- 9.12 **Other.** All other documents and legal matters in connection with the transactions contemplated by this Amendment shall have been delivered, executed or recorded.

10. Additional Documents; Further Assurances. Borrower and Guarantors covenant and agree to execute and deliver to Bank, or to cause to be executed and delivered to Bank contemporaneously herewith, at the sole cost and expense of Borrower and Guarantors, any and all other documents, agreements, statements, resolutions, certificates, consents and information as Bank may require in connection with the matters or actions described herein. Borrower and Guarantors further covenant and agree to execute and deliver to Bank, or to cause to be executed and delivered, at the sole cost and expense of Borrower and Guarantors, from time to time, any and all other documents, agreements, statements, certificates and information as Bank shall request to evidence or effect the terms hereof or to enforce or protect Bank's rights. All of such documents, agreements, statements, certificates and information shall be in form and content acceptable to Bank in its sole discretion.

11. Certain Fees, Costs, Expenses and Expenditures. Borrower and Guarantors agree to pay all of Bank's costs and expenses in connection with the review, preparation, negotiation, documentation and closing of this Amendment and the consummation of the transactions contemplated hereunder, including without limitation, costs, fees and expenses of counsel retained by Bank and all fees related to filings, recording of documents and searches, whether or not the transactions contemplated hereunder are consummated. Nothing contained herein shall limit in any manner whatsoever Bank's right to reimbursement under any of the Loan Documents.

12. No Novation. Nothing contained herein and no actions taken pursuant to the term hereof are intended to constitute a novation of the Loan Agreement or any of the Loan Documents and shall not constitute a release, termination or waiver of any of the liens, security interests, rights or remedies granted to Bank in the Loan Documents.

13. No Waiver. Except as otherwise provided herein, nothing herein contained and no actions taken by Bank in connection herewith shall constitute nor shall they be deemed to be a waiver, release or amendment of or to any rights, remedies, or privileges afforded to Bank under the Loan Documents. Nothing herein shall constitute a waiver by Bank of Borrower's' and Guarantors' compliance with the terms of the Loan Documents, nor shall anything contained herein constitute an agreement by Bank to enter into any further amendments with Borrower and Guarantors.

14. Inconsistencies. To the extent of any inconsistency between the terms and conditions of this Amendment and the terms and conditions of the other Loan Documents, the terms and conditions of this Amendment shall prevail. All terms and conditions of the Loan Documents not inconsistent herewith shall remain in full force and effect and are hereby ratified and confirmed by Borrower and Guarantors.

15. Binding Effect. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

16. No Third Party Beneficiaries. The rights and benefits of this Amendment and the Loan Documents shall not inure to the benefit of any third party.

17. Time of the Essence. Time is of the essence in the performance by Borrower and Guarantors of all the obligations hereunder.

18. **Headings.** The headings of the Sections of this Amendment are inserted for convenience only and shall not be deemed to constitute a part of this Amendment.
19. **Severability.** The provisions of this Amendment and all other Loan Documents are deemed to be severable, and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect.
20. **Modifications.** No modifications of this Amendment or any of the Loan Documents shall be binding or enforceable unless in writing and signed by or on behalf of the party against whom enforcement is sought.
21. **Law Governing.** This Amendment has been made, executed and delivered in the Commonwealth of Pennsylvania and will be construed in accordance with and governed by the laws of such Commonwealth, without regard to any rules or principles regarding conflicts of law or any rule or canon of construction which interprets agreements against the draftsman.
22. **Counterparts; Electronic Signatures.** This Amendment may be executed in any number of counterparts, all of which when taken together constitute one and the same instrument, and any of the parties hereto may execute this Amendment by signing any such counterpart. Delivery of a photocopy, pdf, telecopy or other electronic version of an executed counterpart of a signature page to this Amendment shall be as effective as delivery of a manually executed counterpart of this Amendment.
23. **Waiver of Right to Trial by Jury.** BORROWER, GUARANTORS AND BANK WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THIS AMENDMENT, (b) ARISING UNDER ANY OF THE OTHER LOAN DOCUMENTS OR (c) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF BORROWER OR GUARANTORS, WITH RESPECT TO THIS AMENDMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER, GUARANTORS AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AMENDMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BORROWER, GUARANTORS AND BANK TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. BORROWER AND GUARANTORS ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS SECTION, THAT THEY FULLY UNDERSTAND ITS TERMS, CONTENT AND EFFECT, AND THAT THEY VOLUNTARILY AND KNOWINGLY AGREE TO THE TERMS OF THIS SECTION.

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IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Amendment as of the date first above written.

BORROWER:

INTEST CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Secretary, Treasurer and Chief Financial Officer

[Signature Page to Joinder and Amendment to Amended and Restated Loan and Security Agreement]

GUARANTORS:

AMBRELL CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST SILICON VALLEY CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST EMS, LLC,
a Delaware limited liability company

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

TEMPTRONIC CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

VIDEOLOGY IMAGING CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

BANK:

M&T BANK

By: /s/ Steven A. Vilardi
Steven A. Vilardi, Vice President

Exhibit A

Schedules to Loan Agreement

Attached.

SCHEDULES

- Schedule 10.3 - Ownership Interests
- Schedule 10.4 - Subsidiaries
- Schedule 10.14 - Names
- Schedule 10.16 - Pension and Benefit Plans
- Schedule 10.17 - Leases and Contracts
- Schedule 10.18 - Intellectual Property
- Schedule 10.20 - Affiliate Transactions
- Schedule 10.21(b) - Licenses
- Schedule 10.21(c) - Operating Agreements
- Schedule 10.21(d) - Facility Sites
- Schedule 10.21(e) - Leases
- Schedule 10.24 - Subordinated Indebtedness
- Schedule 12.1 - Permitted Indebtedness
- Schedule 12.2 - Loans
- Schedule 12.3 - Permitted Investments
- Schedule 12.7 - Permitted Liens

**Schedule 10.3
Ownership Interests**

Entity	Owner	Percentage Ownership	Options, Warrants, Rights of Conversion or Purchase
Ambrell Corporation	inTEST Corporation	100%	None
inTEST Silicon Valley Corporation	inTEST Corporation	100%	None
inTEST EMS, LLC	inTEST Corporation	100%	None
inTEST Thermal Solutions GmbH	inTEST Corporation	100%	None
inTEST PTE Ltd.	inTEST Corporation	100%	None
TEMPTRONIC CORPORATION	inTEST Corporation	100%	None
Ambrell B.V.	Ambrell Corporation	100%	None
Ambrell Limited	Ambrell Corporation	100%	None
Videology Imaging Corporation	inTEST Corporation	100%	None

Schedule 10.4
Subsidiaries

Schedule 10.3 is hereby incorporated by reference.

**Schedule 10.14
Names**

Exact Legal Name	Former Legal Names (including date of change)
inTEST Corporation	None
Ambrell Corporation	Concourse Acquisition Corp. (5/25/2017)
inTEST Silicon Valley Corporation	inTEST Sunnyvale Corporation (1/26/2005) TD Acquisition Corp. (8/3/1998) TestDesign Corporation (8/3/1998 merged into TD Acquisition Corp.)
TEMPTRONIC CORPORATION	None
inTEST EMS, LLC	None
Videology Imaging Corporation	None

¹ NTD: Ambrell Corporation was acquired via merger.

Schedule 10.16
United States Pension and Benefit Plans




None.

Schedule 10.17
Leases and Contracts

1. Lease Agreement between Exeter 804 East Gate, LLC and the Company dated May 10, 2010.
- 1.
2. Lease Agreement between AMB-SGP Seattle/Boston, LLC and TEMPTRONIC CORPORATION (a subsidiary of the Company), dated October 25, 2010.
- 2.
3. First Amendment to Lease between AMB-SGP Seattle/Boston, LLC and TEMPTRONIC CORPORATION dated March 1, 2011.
- 3.
4. Second Amendment to Lease between James Campbell Company, LLC and TEMPTRONIC CORPORATION dated April 8, 2019.
5. Lease Agreement between Columbia California Warm Springs Industrial, LLC and inTEST Silicon Valley Corporation dated January 9, 2012
6. First Amendment to Lease Agreement between Columbia California Warm Springs Industrial, LLC and inTEST Silicon Valley Corporation dated November 18, 2016.
7. Guaranty Agreements between Columbia California Warm Springs Industrial, LLC and inTEST Corporation dated January 9, 2012.
- 4.
8. Second Amendment to Standard Lease Agreement, dated January 23, 2020, by and between inTEST Silicon Valley Corporation and Fremont Business Center, LLC.
9. Lease Agreement between Maguire Family Properties, Inc. and Ambrell Corporation dated December 19, 2017
10. Guaranty of Lease between Maguire Family Properties, Inc. and Ambrell Corporation dated December 19, 2017

**Schedule 10.18
Intellectual Property**

Trademarks

Registered Owner	Mark	Registration Number	Date of Registration
TEMPTRONIC CORPORATION	TEMPTRONIC	3748381	Feb. 16, 2010
TEMPTRONIC CORPORATION	THERMONICS	4278707	Jan. 22, 2013
TEMPTRONIC CORPORATION	TEMPERATURE ON THE 	1094282	Jun. 27, 1978
TEMPTRONIC CORPORATION	THERMOJOGGER	1433671	Mar. 24, 1987
TEMPTRONIC CORPORATION	THERMO CHUCK	1197134	Jun. 8, 1982
TEMPTRONIC CORPORATION	THERMO STREAM	1085339	Feb. 14, 1984
TEMPTRONIC CORPORATION	THERMO SPOT	5261537	Aug. 5, 2017
inTEST Corporation	INTEST	2503999	Nov. 6, 2001
inTEST Corporation	inTEST	1268558	Feb. 28, 1984
inTEST Corporation	in2	1255204	Oct. 25, 1983
inTEST Corporation	CENTAUR	3657110	Jul. 21, 2009
inTEST Corporation	TRANSPAR	3635236	Jun. 9, 2009
Ambrell	EXPERIENCE THE EXCELLENCE	5101636	Dec. 13, 2016
Ambrell	EVIEW	4922677	Mar. 22, 2016
Ambrell	EKOHEAT	4751860	Jun. 9, 2015
Ambrell	EASYCOIL	4746013	Jun. 2, 2015
Ambrell	AMBRELL	4623638	Oct. 21, 2014
Ambrell	AMBRELL	3317193	Oct. 23, 2007
Ambrell	EKOHEAT	3526330	Nov. 4, 2008
Ambrell	AMERITHERM	2299340	Dec. 14, 1999
Ambrell		2301415	Dec. 21, 1999
Videology	VIDEOLOGY	85018528	
Videology		78865148	

Trademark Applications - None.

Patents

Registered Owner	Patent Name	Registration Number	Date of Registration
inTEST Corporation	Method and apparatus for docking a test head with a peripheral	9,897,628	18-Sep-14
inTEST Corporation	Test head manipulator	9,557,371	6-May-08
inTEST Corporation	Test head manipulator	9,347,804	23-Feb-07
inTEST Corporation	Test head positioner system	9,134,387	17-Mar-08
inTEST Corporation	Positioner system and method of positioning	8,981,807	27-Jul-10
inTEST Corporation	Cradle and cable handler for a test head manipulator	8,763,962	17-Mar-08
inTEST Corporation	Test head docking system and method with sliding linkage	8,760,182	14-Jul-08
inTEST Corporation	Test head vertical support system	8,700,218	29-Dec-06
inTEST Corporation	Test head manipulator	8,618,822	23-Feb-07
inTEST Corporation	Wrist joint for positioning a test head	8,444,107	28-Jan-03
inTEST Corporation	Test head positioning system and method	8,350,584	29-Dec-06
inTEST Corporation	Test head positioner system	8,212,578	17-Mar-08
inTEST Corporation	Test head positioning system	8,141,834	10-Aug-06
inTEST Corporation	Test head positioning system and method	8,035,406	31-Mar-03
inTEST Corporation	Safety mechanism for materials handling system	7,845,607	18-Feb-03
inTEST Corporation	Modular interface	7,834,718	13-Dec-04
inTEST Corporation	Test head positioning system and method	7,728,579	31-Mar-03
inTEST Corporation	Modular interface	7,605,583	13-Jul-04
inTEST Corporation	Modular interface	7,605,582	13-Jul-04
inTEST Corporation	Computer cabinet	D585,662	20-Sep-07
inTEST Corporation	Test head docking system and method	7,466,122	16-Jul-01
inTEST Corporation	Apparatus and method for balancing and for providing a compliant range to a test head	7,340,972	22-Sep-00
inTEST Corporation	Modular interface	7,301,326	13-Jul-04
inTEST Corporation	Signal module	D554,594	22-Nov-06
inTEST Corporation	Signal module	D554,593	22-Nov-06
inTEST Corporation	Test head positioning system and method	7,235,964	31-Mar-03
inTEST Corporation	Signal module	D535,260	13-Jul-04
inTEST Corporation	Signal module	D528,989	13-Jul-04
inTEST Corporation	Test head docking system and method	7,109,733	16-Jul-01
inTEST Corporation	Apparatus and method for balancing and for providing a compliant range to a test head	7,084,358	20-Sep-01

Registered Owner	Patent Name	Registration Number	Date of Registration
inTEST Corporation	Side supports with adjustable center of gravity	6,975,105	20-Sep-00
TEMPTRONIC CORPORATION	Apparatus for attachment of accessories to processing equipment	10,578,237	12-Aug-16
TEMPTRONIC CORPORATION	Temperature-controlled enclosures and temperature control system using the same	10,060,668	13-Mar-07
TEMPTRONIC CORPORATION	Temperature system having an impurity filter	9,335,080	17-Oct-11
TEMPTRONIC CORPORATION	Environmental test system and method eith in-situ temperature sensing of device under test (DUT)	8,602,641	2-May-13
TEMPTRONIC CORPORATION	Temperature-controlled enclosures and temperature control system using the same	8,408,020	13-Mar-07
TEMPTRONIC CORPORATION	Temperature-controlled enclosures and temperature control system using the same	7,629,533	13-Mar-07
TEMPTRONIC CORPORATION	High-flow cold air chiller (THERMONICS)	7,603,871	29-Jun-06
TEMPTRONIC CORPORATION	Method and apparatus for latent temperature control for a device under test (SIGMA)	7,483,769	30-Jan-06
TEMPTRONIC CORPORATION	Method and apparatus for latent temperature control for a device under test (SIGMA)	6,993,418	2-Aug-02
TEMPTRONIC CORPORATION	Workpiece chuck with temperature control assemble having spacers between layers providing clearance for thermoelectric modules	6,886,347	10-Jul-03
TEMPTRONIC CORPORATION	Workpiece chuck with temperature control assemble having spacers between layers providing clearance for thermoelectric modules	6,745,575	11-Jul-02
TEMPTRONIC CORPORATION	Apparatus and method for controlling temperature in a device under test using integrated temperature sensing diode	6,552,561	20-Apr-01
TEMPTRONIC CORPORATION	Apparatus and method for controlling temperature in a wafer using integrated temperature sensing diode	6,545,494	10-Jul-00
Ambrell Corp	Food heater	10,206,250	20-Apr-06
Ambrell Corp	Induction heating system	9,554,423	25-Oct-12

Ambrell Corp	Dynamic power balancing among multiple induction heater power units	9,439,246	15-Mar-13
Ambrell Corp	Power system component protection system for use with an induction heating system	9,167,631	25-Aug-06
Ambrell Corp	Food heater	9,000,335	21-Apr-06
Ambrell Corp	Induction heating systems and methods for producing an object having a varying hardness along the length of the object	8,803,047	14-Jun-12
Ambrell Corp	Portable food heater	8,481,893	28-Aug-06
Ambrell Corp	Power switching system to increase induction heating to a load from available AC mains power	8,331,115	15-Nov-07
Ambrell Corp	Automatic frequency compensation for pulse width modulated RF level control	8,283,985	25-Aug-06
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	8,269,532	10-Aug-06
Ambrell Corp	High voltage full bridge circuit and method for operating the same	7,995,362	15-Jun-06
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	7,906,997	10-Aug-06
Ambrell Corp	Radio frequency (RF) induction cooking food heater	7,829,827	21-Apr-06
Ambrell Corp	Portable food heater	7,804,045	28-Aug-06
Ambrell Corp	Power switching system to increase induction heating to a load from available AC mains power	7,787,268	15-Nov-07
Ambrell Corp	Automatic frequency compensation for pulse width modulated RF level control	7,626,463	25-Aug-06
Ambrell Corp, BASF Corp	Fast-drying, radiofrequency-activatable inkjet inks and methods and systems for their use	7,520,600	1-Nov-04
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	7,551,011	10-Aug-06
Ambrell Corp	High voltage full bridge circuit and method for operating the same	7,489,530	15-Jun-05
Ambrell Corp	Electrode apparatus for stray field radio frequency heating	6,995,345	18-Mar-02
Ambrell Corp	Induction furnace for heating a workpiece in an inert atmosphere or vacuum	6,861,629	9-May-02

Patent Applications

Registered Owner	Patent Name	Application Number	Filing Date
TEMPTRONIC CORPORATION	Temperature forcing system and method with conductive thermal probes	15/437861	21-Feb-17
TEMPTRONIC CORPORATION	System and method for device under test cooling using digital scroll compressor	15/947415	6-Apr-18
TEMPTRONIC CORPORATION	Apparatus and method for controlling temperature at multiple test sites	16/692334	22-Nov-19

Copyrights and Copyright Applications - None.

Material IP Licenses - None.

Schedule 10.20
Affiliate Transactions

None

Schedule 10.21(b)
Licenses

ITAR Registration – The iTS (inTEST Thermal Solutions) business unit has this registration because it sells certain products to customers in the defense/aerospace industries.

Schedule 10.21(c)
Operating Agreements

None.

Schedule 10.21(d)
Addresses

Entity	Locations
inTEST Corporation	<u>Chief Executive Office</u> 804 East Gate Drive Suite 200, Mount Laurel, NJ 08054 <u>Other Places of Business</u> 41 Hampden Rd, Mansfield, MA 02048 <u>Books / Inventory and Equipment</u> 804 East Gate Drive, Mount Laurel, NJ 08054
Ambrell Corporation	<u>Chief Executive Office</u> 1655 Lyell Avenue, Rochester, New York 14606 <u>Other Places of Business / Books / Inventory and Equipment</u> 804 East Gate Drive, Mount Laurel, NJ 08054 <u>Other Location Where Books Are Held</u> 1655 Lyell Avenue, Rochester, New York 14606 <u>Previous Address (No Longer Used)</u> 39 Main Street, Scottsville, NY 14546
inTEST Silicon Valley Corporation	<u>Chief Executive Office</u> 47777 Warm Springs Boulevard, Fremont, California 94539 <u>Other Places of Business / Books / Inventory and Equipment</u> 804 East Gate Drive, Mount Laurel, NJ 08054 <u>Other Location Where Books Are Held</u> 47777 Warm Springs Boulevard, Fremont, California 94539
TEMPTRONIC CORPORATION	<u>Chief Executive Office</u> 41 Hampden Rd, Mansfield, MA 02048 <u>Other Places of Business / Books / Inventory and Equipment</u> 804 East Gate Drive, Mount Laurel, NJ 08054 <u>Other Location Where Books Are Held</u> 41 Hampden Rd, Mansfield, MA 02048
inTEST EMS, LLC	<u>Chief Executive Office</u> 804 East Gate Drive Suite 200, Mount Laurel, NJ 08054 <u>Other Places of Business / Books / Inventory and Equipment</u> 804 East Gate Drive, Mount Laurel, NJ 08054
Videology Imaging Corporation	37M Lark Industrial Parkway, Greenville, Rhode Island 02828

Schedule 10.21(e)
Leases

Lease Description	Landlord	Locations
Lease Agreement between Exeter 804 East Gate, LLC and the Company dated May 10, 2010	Exeter 804 East Gate 2018 LLC Exeter Property Group 101 West Elm Street, Suite 600 Conshohocken, PA 19428	804 East Gate Drive Suite 200 Mount Laurel, NJ 08054
Second Amendment to Lease between James Campbell Company, LLC and TEMPTRONIC CORPORATION dated April 8, 2019	James Campbell Company, LLC 425 California Street Suite 500 San Francisco, CA 94104-2112	41 Hampden Rd Mansfield, MA 02048
Lease Agreement between Maguire Family Properties, Inc. and Ambrell Corporation dated December 19, 2017	Maguire Family Properties Inc. 770 Rock Beach Road Rochester, NY 14617	1655 Lyell Avenue Rochester, New York 14606
Second Amendment to Standard Lease Agreement, dated January 23, 2020, by and between inTEST Silicon Valley Corporation and Fremont Business Center, LLC	Fremont Business Center LLC c/o CIP Real Restate 19762 MacArthur Blvd., Suite 300 Irvine, California 92612-2498	47777 Warm Springs Boulevard Fremont, California 94539

**Schedule 10.24
Subordinated Indebtedness**

None.

**Schedule 12.1
Existing Indebtedness**

None.

Schedule 12.2
Loans

None.

Schedule 12.3
Permitted Investments

Schedule 10.3 is hereby incorporated by reference.

Schedule 12.7
Liens

None.

AMENDED AND RESTATED SURETY AGREEMENT

THIS AMENDED AND RESTATED SURETY AGREEMENT (“Surety Agreement”) is made effective as of October 28, 2021 by **AMBRELL CORPORATION**, a Delaware corporation, **INTEST SILICON VALLEY CORPORATION**, a Delaware corporation, **INTEST EMS, LLC**, a Delaware limited liability company, **TEMPTRONIC CORPORATION**, a Delaware corporation (individually and collectively, jointly and severally, the “**Existing Guarantors**”) and **VIDEOLOGY IMAGING CORPORATION**, a Delaware corporation (“**Videology**” together with the Existing Guarantors, individually and collectively, jointly and severally, the “**Guarantor**”) in favor of **M&T BANK** (together with its successors and assigns, “**Bank**”).

BACKGROUND

A. **INTEST CORPORATION**, a Delaware corporation (the “**Borrower**”), Existing Guarantors and Bank are parties to that certain Amended and Restated Loan and Security Agreement dated of October 15, 2021, as amended by that certain Joinder and Amendment to Amended and Restated Loan and Security Agreement dated as of the date hereof (as it may be further amended, supplemented or restated from time to time, the “**Loan Agreement**”) and Existing Guarantors previously executed and delivered that certain Surety Agreement dated as of April 10, 2020 in favor of Bank (“**Existing Surety Agreement**”).

B. Bank is willing to continue to extend the Loans to Borrower under the Loan Agreement, only if Guarantor agrees to continue to guarantee and remain surety for the full, prompt, complete and faithful payment and performance of all Obligations of Borrower subject to the terms and conditions of this Surety Agreement, and to execute and deliver this Surety Agreement.

C. Guarantor will benefit directly and indirectly from the extension or continuation of such credit facilities to Borrower.

D. Capitalized terms not otherwise defined in this Surety Agreement will have the meanings set forth in the Loan Agreement.

NOW, THEREFORE, for good and valuable consideration, and intending to be legally bound hereby, Guarantor irrevocably and unconditionally agrees as follows:

1. Unlimited Continuing Guaranty and Suretyship Obligation. Guarantor guarantees to Bank and becomes a surety to Bank, for the Obligations. The liability of Guarantor hereunder is unlimited. **THIS SURETY AGREEMENT IS A CONTINUING GUARANTY AND SURETYSHIP AGREEMENT AND SHALL CONTINUE IN FORCE UNTIL ALL OBLIGATIONS HAVE BEEN PAID OR SATISFIED IN FULL AS DETERMINED BY BANK AND BANK HAS NO FURTHER OBLIGATION OR COMMITMENT TO ADVANCE SUMS OR EXTEND ANY CREDIT FACILITY TO BORROWER. GUARANTOR EXPRESSLY AGREES THAT BORROWER MAY CREATE OR INCUR OBLIGATIONS AND MAY REPAY AND SUBSEQUENTLY CREATE OR INCUR OBLIGATIONS, ALL WITHOUT NOTICE TO GUARANTOR, AND GUARANTOR SHALL BE BOUND THEREBY. ALL ADVANCES TO AND BORROWINGS OF BORROWER FROM BANK SHALL CONSTITUTE ONE SINGLE OBLIGATION GUARANTEED BY GUARANTOR PURSUANT TO THE TERMS HEREOF.**

2. **Costs and Expenses.** Guarantor shall pay upon demand all costs and expenses incurred by Bank in connection with Bank interpreting, enforcing, protecting and/or preserving its rights or remedies hereunder and any amount thereof not paid promptly following demand therefor shall be added to the sum payable hereunder and shall bear interest at the Default Rate from the date of such demand until paid in full. If Bank employs counsel to enforce this Surety Agreement by suit or otherwise, Guarantor will reimburse Bank upon demand for all costs of suit and other expenses in connection therewith, whether or not suit is actually instituted, together with Bank's reasonable attorney's fees together with interest on any judgment obtained by Bank at such Default Rate, including interest at such Default Rate from and after the date of execution, judicial or foreclosure sale until actual payment is made to Bank of the full amount due Bank hereunder.

3. **Scope and Duration of Liability.**

3.1 **Primary Liability.** The obligations of Guarantor hereunder are primary, absolute, independent, irrevocable and unconditional. Guarantor's obligation to pay any of the Obligations is a guaranty of payment, not of collection. This agreement is an agreement of suretyship as well as of guaranty and without being required to proceed first against Borrower or any other person or entity, or against any other security for the Obligations, Bank may proceed directly against Guarantor upon the occurrence of an Event of Default.

3.2 **Duration.** This Surety Agreement shall remain in full force and effect until all of the Obligations are fully, finally and irrevocably paid, complied with and performed and until all sums received by Bank thereunder are no longer subject to rescission or repayment upon Bankruptcy, insolvency or reorganization of Borrower or Guarantor. If at any time a payment or payments by Borrower or Guarantor on any of the Obligations, or any part thereof, are subsequently invalidated, declared to be fraudulent or preferential, set aside or are required to be repaid to a trustee, receiver or any other person or entity under any bankruptcy act, state or federal law, common law or equitable cause, then to the extent of such payment or payments, the Obligations intended to be satisfied shall be revived and continued in full force and effect as if such payment or payments had not been made.

3.3 **Remedies.** Upon the occurrence of an Event of Default, Guarantor shall immediately pay, comply with and perform such of the Obligations as Bank shall direct, irrespective of whether the Obligations directed by Bank to be paid, complied with and performed by Guarantor are those which gave rise to the Event of Default.

4. **Unconditional Enforceability.**

4.1 **Enforceability.** The obligations of Guarantor under this Surety Agreement shall be unconditional and irrevocable, irrespective of:

- (A) the genuineness, validity or enforceability of any of the Loan Documents;

(B) any limitation of liability of Borrower or any other person or entity contained in the Loan Documents;

(C) the existence of any security given to secure the Loan Documents;

(D) any change in Borrower's financial condition, operations, loan status or collateral position, or the impossibility or illegality of performance on the part of Borrower obligations under the Loan Documents;

(E) any defense that may arise by reason of the incapacity or lack of authority of Borrower, any other guarantor or other person or entity or the failure of Bank to file or enforce a claim against the estate of Borrower in any bankruptcy or other proceedings; or

(F) any other circumstances, occurrences or conditions, whether similar or dissimilar to any of the foregoing, which might otherwise constitute a legal or equitable defense, discharge or release of a guarantor or surety.

4.2 Acceleration. If Borrower or any other person or entity defaults under the Loan Documents and Bank is prevented from accelerating payment thereunder, either by operation of any bankruptcy laws or otherwise, Bank shall be entitled to receive from Guarantor, upon demand by Bank, the sums which would have otherwise been due and payable had such acceleration occurred.

5. Consideration. Guarantor acknowledges and agrees (a) that it has received good and valuable consideration for guaranteeing the obligations of Borrower under this Surety Agreement, and (b) based upon Guarantor's financial condition, Borrowers' financial consideration and the reasonable likelihood that Borrower might default under its obligations to Bank and Guarantor would be compelled to perform under this Surety Agreement, Guarantor is not rendered insolvent by the execution of this Surety Agreement. Guarantor represents and warrants to Bank that, based upon Guarantor's knowledge of and familiarity with, the financial condition and business operations of Borrower, Borrower's business and operations are financially viable and Borrowers should be able to pay their debts and obligations as and when due in the ordinary course of business.

6. Release/Modification/Information. Bank may at any time and from time to time, with or without consideration, release or discharge Guarantor, Borrower or any one or more other guarantors of or sureties for any or all of the Obligations, agree to the substitution, exchange or release of all or any part of the collateral securing the Obligations, obtain or receive any additional collateral or suretyship obligations securing the Loan Documents, and/or modify, amend, increase, extend, renew or supplement any of the Obligations or the Loan Documents, all without notice to or further consent from Guarantor. Except as may be expressly agreed to by Bank in writing, none of the foregoing actions shall in any way affect or diminish the liability of Guarantor under this Surety Agreement. Bank has no obligation or commitment of any kind to inform or advise Guarantor of any information, occurrences or events regarding Borrower or its financial condition, operations, loan status or collateral position, including, without limitation, any material adverse change in such financial condition, operations, loan status or collateral position. Guarantor acknowledges that it shall be solely responsible for keeping itself informed as to any of the foregoing matters.

7. **Subrogation.** Guarantor hereby agrees that:

7.1 Subordination. Any and all rights of subrogation that Guarantor may have against Borrower or against any collateral or security for any of the Obligations, and any and all rights of contribution, indemnity and/or substitution that Guarantor may have against Borrower or any other guarantor or surety, shall be junior and subordinate to the Obligations, to any rights that Bank may have against Borrower, to all right, title and interest that Bank may have in any such collateral or security for the Obligations, and to any right Bank may have against such other guarantor or surety. Bank may use, sell or dispose of any item of collateral or security for the Obligations as it sees fit without regard to any subrogation rights Guarantor may have, and upon any such disposition or sale of such collateral or security any rights of subrogation that Guarantor may have with respect to such collateral or security shall terminate.

7.2 Limitations. Until the Obligations shall have been indefeasibly paid in full, Guarantor shall not take, or permit to be taken, any action to exercise (a) any right of subrogation arising in respect of the Obligations, (b) any right of contribution arising in respect of the Obligations that Guarantor may have against any other guarantor or surety of the Obligations, (c) any right to enforce any remedy which Bank now has or may hereafter have against Borrower, or (d) any benefit of, and any right to participate in, any security now or hereafter held by Bank. If any amount shall be paid to Guarantor on account of such subrogation or contribution rights at any time when all Obligations shall not have been paid in full, such amount shall be held in trust for Bank and shall forthwith be paid over to Bank to be credited and applied against the Obligations, whether matured or unmatured, in accordance with the terms of the Loan Documents.

8. **Representations.** Guarantor represents and warrants to Bank that:

8.1 Valid Organization, Good Standing and Qualification. Guarantor is a corporation duly incorporated or a limited liability company duly formed, as applicable, validly existing and in good standing under the laws of the applicable state described on **Schedule 8.1**, has full power and authority to execute, deliver and comply with the Loan Documents, and to carry on its business as it is now being conducted and is duly licensed or qualified as a foreign corporation or limited liability company in good standing under the laws of each other jurisdiction described on **Schedule 8.1** and in which the character or location of the properties owned by it or the business transacted by it requires such licensing or qualification.

8.2 Due Authorization; No Legal Restrictions. The execution and delivery by Guarantor of the Loan Documents, the consummation of the transactions contemplated by the Loan Documents and the fulfillment and compliance with the respective terms, conditions and provisions of the Loan Documents: (a) have been duly authorized by all requisite corporate or company action of Guarantor, as applicable, (b) will not conflict with or result in a breach of, or constitute a default (or might, upon the passage of time or the giving of notice or both, constitute a default) under, any of the terms, conditions or provisions of any applicable statute, law, rule, regulation or ordinance or Guarantor's Articles of Incorporation, By-Laws, Articles of Formation, Operating Agreement or any indenture, mortgage, loan or credit agreement or instrument to which Guarantor is a party or by which it may be bound or affected, or any judgment or order of any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, and (c) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Guarantor under the terms or provisions of any such agreement or instrument, except liens in favor of Bank.

8.3 Enforceability. This Surety Agreement has been duly executed by Guarantor and delivered to Bank and constitutes a legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms.

8.4 No Default Under Other Obligations, Orders or Governmental Regulations. Guarantor is not in violation of its Articles of Incorporation or Operating Agreement, or in default in the performance or observance of any of its obligations, covenants or conditions contained in any indenture or other agreement creating, evidencing or securing any indebtedness or obligation or pursuant to which any such indebtedness or obligations are issued and Guarantor is not in violation of or in default under any other agreement or instrument or any judgment, decree, order, statute, rule or governmental regulation, applicable to it or by which its properties may be bound or affected.

8.5 Governmental Consents. No consent, approval or authorization of or designation, declaration or filing with any governmental authority on the part of Guarantor is required in connection with the execution, delivery or performance by Guarantor of the Surety Agreement or the consummation of the transactions contemplated hereby.

8.6 Review of Loan Documents. Guarantor's authorized officers have either examined the Loan Documents or have had an opportunity to examine the Loan Documents and Guarantor has waived the right to examine them.

8.7 Benefit. Guarantor has a direct financial interest in Borrower and will benefit directly and indirectly from the execution of the Loan Documents.

8.8 Independent Review. Guarantor has executed this Surety Agreement after conducting its own independent review and analysis of the financial condition and operations of Borrower, and Guarantor has not relied upon any representation, statement or information of or from Bank in connection with the same.

9. Notices. All notices, requests and other communication made or given in connection with this Surety Agreement shall be in writing and, unless receipt is stated herein to be required, shall be deemed to have been validly given if delivered personally to the individual, division or department to whose attention notices to a party are to be addressed, or by private carrier, or by registered or certified mail, return receipt requested, in all cases with postage prepaid, addressed as follows until some other address (or individual, division or department for attention) shall be designated by notice given in accordance with this paragraph:

To Guarantor:	c/o INTEST Corporation 804 East Gate Drive, Suite 200 Mount Laurel, NJ 08054 Attention: Duncan Gilmour, Treasurer and CFO Telephone: 856-505-8812 E-Mail: [REDACTED]
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To Bank: M&T Bank
210 Lake Drive East Suite 102
Woodlands Falls Corporate Park
Cherry Hill, NJ 08002
Attention: Steven A. Vilardi, Vice President

10. Set-Off. Without limiting the rights of Bank under applicable law, Bank has and may exercise a right of set-off, a lien against and a security interest in all property of Guarantor now or at any time in Bank's possession in any capacity whatsoever, including but not limited to any balance of any deposit, trust or agency account, or any other bank account with Bank, as security for the Obligations. At any time and from time to time following the occurrence of an Event of Default, or an event which with the giving of notice or passage of time or both would constitute an Event of Default, Bank may without notice or demand, 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 Bank to or for the credit of Borrower or Guarantor against any or all of the Obligations and Borrower's and Guarantor's obligations under the Loan Documents.

If any bank account of Guarantor with Bank are attached or otherwise lien or levied upon by any third party, Bank need not await the running of any applicable grace period hereunder, but Bank shall have and be deemed to have the immediate right of set-off and may apply the funds or amount thus set-off against Guarantor's obligations to Bank.

11. Cumulative Remedies. The rights, remedies, powers and privileges provided to Bank herein or in any of the Loan Documents shall not be deemed exclusive, but shall be cumulative and shall be in addition to any other rights, remedies, powers and privileges of Bank at law or in equity.

12. Waivers. Guarantor hereby fully, finally, unconditionally and irrevocably waives the following:

12.1 Notices. Notice of acceptance of this Surety Agreement by Bank and any notice of the incurring by Borrower of any Obligations; presentment for payment, notice of nonpayment or demand, demand, protest, notice of protest and notice of dishonor or default to any party including Borrower and Guarantor; notice of any change in Borrower's financial condition, operations, loan status or collateral position; notice of any of the actions described in **Section 6** hereof; and all other notices to which Guarantor may be entitled but which may legally be waived.

12.2 Demand. Demand for payment as a condition of liability under this Surety Agreement.

12.3 Disability. Any disability of Borrower or defense available to Borrower, including absence or cessation of Borrower's liability for any reason whatsoever.

12.4 Defenses. Any defense or circumstance which might otherwise constitute a legal or equitable discharge of a guarantor or surety, including, without limitation, any obligation of Bank to proceed against Borrower prior to exercising any rights hereunder.

12.5 Possession/Marshalling. Any demand for possession of any collateral and any and all rights to subrogation or realization on any of Borrower's property, including any right to require or participate in the marshalling of Borrower's assets.

12.6 Termination. Any and all right to terminate Guarantor's obligations hereunder by delivery of written notice to Bank or otherwise.

12.7 Limitations on Actions. All benefits under any present or future laws exempting any property, real or personal (with the exception of Guarantor's officer's primary residence), or any part of any proceeds thereof, from attachment, levy or sale under execution, or providing for any stay of execution to be issued on any judgment recovered under any of the Loan Documents or in any replevin or foreclosure proceedings, or otherwise providing for any valuation, appraisal or exemption.

12.8 Inquisition. All rights to inquisition on any real estate, which real estate may be levied upon pursuant to a judgment obtained under any of the Loan Documents and sold upon any writ of execution issued thereon in whole or in part, in any order desired by Bank.

12.9 Bond. Any requirement for bonds, security or sureties required by statute, court rule or otherwise.

12.10 Expenses. All rights to claim or recover attorney's fees and costs in the event that Guarantor is successful in any action to remove, suspend or prevent the enforcement of a judgment entered by confession.

12.11 Subrogation. ANY AND ALL RIGHTS GUARANTOR MAY HAVE AT ANY TIME (WHETHER ARISING DIRECTLY OR INDIRECTLY, BY OPERATION OF LAW OR CONTRACT) TO ASSERT ANY CLAIM AGAINST BORROWER OR ANY OTHER GUARANTOR ON ACCOUNT OF PAYMENTS MADE OR OBLIGATIONS PERFORMED UNDER THIS SURETY AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY AND ALL RIGHTS OF SUBROGATION, REIMBURSEMENT, EXONERATION, CONTRIBUTION OR INDEMNITY.

12.12 Imperfections. Any and all errors, defects and imperfections in any action by Bank in replevin, foreclosure or other court process or in connection with any other action related to any of the Loan Documents or the transactions contemplated therein.

13. Delay or Omission Not Waiver. Neither the failure nor any delay on the part of Bank to exercise any right, remedy, power or privilege under the Loan Documents upon the occurrence of any Event of Default or otherwise shall operate as a waiver thereof or impair any such right, remedy, power or privilege. No waiver of any Event of Default shall affect any later Event of Default or shall impair any rights of Bank. No single, partial or full exercise of any rights, remedies, powers and privileges by Bank shall preclude further or other exercise thereof. No course of dealing between Bank, Borrower or Guarantor shall operate as or be deemed to constitute a waiver of Bank's rights under the Loan Documents or affect the duties or obligations of Borrower or Guarantor.

14. **Binding Effect.** This Surety Agreement and all rights and powers granted hereby will bind and inure to the benefit of the parties hereto and their respective successors and assigns.

15. **Prior Guaranties.** Nothing contained in this Surety Agreement is intended to release, supersede, modify or otherwise affect any other guaranty or suretyship agreement from Guarantor to Bank.

16. **Construction.** For purposes of this Surety Agreement, the singular shall be deemed to include the plural and the neuter shall be deemed to include the masculine and feminine as the context may require.

17. **Severability.** The provisions of this Surety Agreement and all other Loan Documents are deemed to be severable, and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect.

18. **Governing Law.** This Surety Agreement has been made, executed and delivered in the Commonwealth of Pennsylvania and will be construed in accordance with and governed by the laws of such Commonwealth without regard to any rules or principles regarding conflict of laws or any rule or canon of construction which interprets agreements against the draftsman.

19. **Joint and Several Liability.** All obligations of Guarantor hereunder are joint and several with those of all other guarantors of or surety for all or any part of the Obligations. All agreements, conditions, covenants and provisions hereof shall be the joint and several obligation of Guarantor.

20. **Counterparts.** This Surety 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 Surety Agreement by signing any such counterpart.

21. **Submission to Jurisdiction.** Guarantor hereby consents to the jurisdiction of any state or federal court located within the Commonwealth of Pennsylvania, and irrevocably agrees that, subject to Bank's election, all actions or proceedings relating to the Loan Documents or the transactions contemplated hereunder shall be litigated in such courts, and Guarantor waives any objection which Guarantor may have based on lack of personal jurisdiction, improper venue or forum non conveniens to the conduct of any proceeding in any such court and waives personal service of any and all process upon Guarantor, and consents that all such service of process be made by mail or messenger directed to Guarantor at the address set forth in **Section 9.** Nothing contained in this **Section 21** shall affect the right of Bank to serve legal process in any other manner permitted by law or affect the right of Bank to bring any action or proceeding against Guarantor or Guarantor's property in the courts of any other jurisdiction.

22. **Limitation on Damages.** Guarantor and Bank agree that, in any action, suit or proceeding, in respect of or arising out of this Surety Agreement, the Loan Documents or the transactions contemplated hereunder, each mutually waives to the fullest extent permitted by law, any claim for consequential, punitive or special damages.

23. **JURY TRIAL WAIVER.** GUARANTOR AND BANK WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER ANY OF THE LOAN DOCUMENTS OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF BORROWER, GUARANTOR OR BANK WITH RESPECT TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. GUARANTOR AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THE LOAN DOCUMENTS MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF GUARANTOR AND BANK TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. GUARANTOR ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS SECTION, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENTS AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS SECTION.

24. **No Novation.** This Surety Agreement shall amend and restate, but not satisfy, the obligations of Existing Guarantors under the Existing Surety Agreement. Nothing contained herein shall be deemed to constitute a novation or satisfaction of the Existing Surety Agreement, but the terms and conditions of this Surety Agreement shall amend, restate, and supersede the terms and conditions of the Existing Surety Agreement.

25. **Joinder of Videology.** Videology hereby agrees that (a) effective as of the date hereof, it is hereby and shall be deemed to be a Guarantor under the Surety Agreement, and (b) from the date hereof until payment in full of the Obligations and termination of the Loan Agreement, Videology has assumed the obligations of a Guarantor under, and Videology shall perform, comply with and be subject to and bound by, jointly and severally with each of the Original Guarantors, each of the terms, provisions, conditions and waivers of the Surety Agreement to the same extent as it were an original signatory thereto.

Videology joins in, makes, affirms, and ratifies in favor of Bank, the Surety Agreement given by the Existing Guarantors to Bank. Without limiting the foregoing, Videology hereby pledges, collaterally assigns and grants a lien on and security interest in its right, title and interest in and to its Collateral to Lender to secure the payment and performance of the Obligations. Videology hereby authorizes Bank to file such UCC financing statements or amendments or other similar filings as Bank shall determine to be necessary or desirable in connection with the foregoing. Videology also agrees to execute and deliver (or cause to be executed and delivered) at any time and from time to time such further instruments and documents and do or cause to be done such further acts as may be reasonably requested by Bank to effect the provisions of this **Section 25**.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have caused this Surety Agreement to be executed the day and year first above written.

GUARANTOR:

AMBRELL CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST SILICON VALLEY CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST EMS, LLC,
a Delaware limited liability company

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

TEMPTRONIC CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

VIDEOLOGY IMAGING CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

Bank hereby joins in this Surety Agreement for the sole purpose of ratifying and confirming its consent to the provisions contained in **Section 23** above.

BANK:

M&T BANK

By: /s/ Steven A. Vilardi

Steven A. Vilardi, Vice President

AMENDED AND RESTATED PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES SECURITY AGREEMENT

THIS AMENDED AND RESTATED PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES SECURITY AGREEMENT (this “**Security Agreement**”) is made effective as of the 28th day of October, 2020 by and between **INTEST CORPORATION**, a Delaware corporation, (“**Borrower**”), **AMBRELL CORPORATION**, a Delaware corporation, **INTEST SILICON VALLEY CORPORATION**, a Delaware corporation, **INTEST EMS, LLC**, a Delaware limited liability company, **TEMPTRONIC CORPORATION**, a Delaware corporation (collectively, the “**Existing Guarantors**”), and **VIDEOLOGY IMAGING CORPORATION**, a Delaware corporation (“**Videology**” and together with the Existing Guarantors, individually and collectively, the “**Guarantors**” and together with Borrower, individually and collectively, jointly and severally, the “**Assignor**”) and **M&T Bank** (“**Assignee**”).

BACKGROUND

A. Borrower, Existing Guarantors and Assignee are parties to that certain Amended and Restated Loan and Security Agreement dated of October 15, 2021, as amended by that certain Joinder and Amendment to Amended and Restated Loan and Security Agreement by and among Borrower, Guarantors and Assignee dated as of the date hereof (as it may be further amended, supplemented or restated from time to time, the “**Loan Agreement**”) and Existing Guarantors previously executed and delivered that certain Patents, Trademarks, Copyrights and Licenses Security Agreement dated as of April 10, 2020 in favor of Assignee (“**Existing Security Agreement**”).

B. The Loan Agreement provides, *inter alia*, that Assignor grants to Assignee a security interest in all of Assignor’s assets, including, without limitation, its patents, patent rights, patent applications, servicemarks, trademarks, service trademark applications, service tradenames, goodwill, copyrights and licenses.

NOW THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. **Incorporation of Loan Agreement.** The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

2. **Security Interests.**

2.1 **Security Interest.** To secure the complete and timely payment and satisfaction of all Obligations, Assignor hereby assigns, mortgages and pledges to Assignee and grants to Assignee a security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, all of such Assignor’s right, title and interest in and to all of the following, whether now owned or existing and filed or hereafter acquired or arising and filed (collectively with items named in **section 2.2**, below, the “**Collateral**”):

(a) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on **Exhibit "A"**, attached hereto and made a part hereof, and (i) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (ii) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (i)-(iv), are sometimes hereinafter individually and/or collectively referred to as the "**Patents**");

(b) copyrights, copyright registrations, copyright applications and all computer programs, operating systems, application systems, hardware or software of any nature whatsoever owned by Assignor, whether operational, under development or inactive, including all object codes, source codes, modules, technical manuals, user manuals, operating instructions and procedures, in-put and out-put formats, program listings, narrative descriptions, program flow charts, file layouts, report layouts, screen layouts and other documentation therefor (including internal notes, memoranda, status evaluations, marketing information and write-ups), and all improvements, modifications, enhancements, new releases and revisions thereof, whether in machine-readable form, programming language or any other language or symbols, and whether stored, encoded, recorded or written on disk, tape, film, memory device, paper or other media of any nature; together with all tangible media upon which any of the foregoing are recorded or encoded, including, without limitation, all chips, disks, tapes, film and paper; including, without limitation, the copyrights, copyrights registrations and copyrights applications listed on **Exhibit "C"** attached hereto and made a part hereof, and (i) all renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, and (c) the right to sue for past, present and future infringements thereof (all of the foregoing items are sometimes referred to herein collectively as the "**Copyrights**"); and

(c) all material license agreements with any other party, whether Assignor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on **Exhibit "D"** attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale all inventory now or hereafter owned by Assignor and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "**Licenses**").

2.2 **Security Interest.** To secure the complete and timely payment and satisfaction of all Obligations, Assignor hereby mortgages and pledges to Assignee and grants to Assignee a security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, all of such Assignor's right, title and interest in and to all of the following, whether now owned or existing and filed or hereafter acquired or arising and filed (collectively with items named in **section 2.1**, above, the "**Collateral**"):

(a) servicemarks, trademarks, servicemark and trademark registrations, tradenames, trademark applications, and all goodwill attendant thereto, including, without limitation, the servicemarks, trademarks, tradenames, registrations and applications listed on **Exhibit "B"**, attached hereto and made a part hereof, and (i) all renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including without limitation, damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing servicemarks, trademarks, servicemark and trademark registrations, tradenames and applications together with the items described in clauses (i)-(iv), are sometimes hereinafter individually and/or collectively referred to as the "**Trademarks**").

3. **Restrictions on Future Agreements.** Assignor agrees that until all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, Assignor will not, without Assignee's prior written consent, enter into any agreement (including, without limitation, any license or royalty agreement) which is inconsistent with Assignor's obligations under this Security Agreement or the Loan Agreement and Assignor further agrees that it will not take any action, or permit any action to be taken by others, subject to its control, including licensees, or fail to take any action, which would affect the validity or enforcement of the rights of Assignee under this Security Agreement.

4. **New Patents, Trademarks, and Licenses.** Assignor represents and warrants that the Patents, Trademarks, Copyrights and Licenses listed on **Exhibits "A", "B", "C" and "D"**, respectively, constitute all of the patents, trademarks, copyrights, applications and licenses, now owned by Assignor. If, before all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, Assignor shall (i) obtain rights to any new patentable inventions, trademarks, trademark registrations, tradenames, copyrights or licenses, or (ii) become entitled to the benefit of any patent, trademark or copyright application, trademark, trademark registration or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of **Article 2** above shall automatically apply thereto and Assignor shall give to Assignee prompt written notice thereof. Assignor hereby authorizes Assignee to modify this Security Agreement by amending **Exhibit "A", "B", "C" and/or "D"**, as applicable, to include any future patents, patent applications, trademarks, trademark registrations, trademark applications, tradenames, copyrights and licenses which are Patents, Trademarks, Copyrights or Licenses, as applicable, under **Article 2** above or under this **Section 4**. Assignor hereby agrees to provide to Assignee such assignment or other documentation as Assignee may request to record Assignee's lien on such future Patents, Trademarks, Copyrights or Licenses.

5. **Royalties; Term.** Assignor hereby agrees that the use by Assignee of all Patents, Trademarks, Copyrights and Licenses as described herein shall be worldwide and without any liability for royalties or other related charges from Assignee to Assignor. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks, Copyrights and Licenses assigned hereunder, or (ii) the date on which all Obligations has been paid in full and the Loan Agreement is terminated.

6. **Assignee's Right to Inspect.** Assignee shall, subject to any limitation in Section 10.6 of the Loan Agreement, have the right, at any time and from time to time, to inspect Assignor's premises and to examine Assignor's books, records and operations, including, without limitation, Assignor's quality control processes. Assignor agrees that upon the occurrence and continuation of an Event of Default, Assignee, or a conservator appointed by Assignee, shall have the right to establish such additional reasonable product quality controls as Assignee, or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Assignor under the Trademarks. Assignor agrees (i) not to sell or assign its interest in, or grant any license under, the Patents, Trademarks, Copyrights or Licenses, outside of the ordinary course of business; (ii) to maintain the quality of any and all products in connection with which the Trademarks and/or Copyrights are used, consistent with quality of said products as of the date hereof; (iii) not to adversely change the quality of said products without Assignee's express written consent; and (iv) to provide Assignee, upon request, with a certificate of an officer of Assignor certifying Assignor's compliance with the foregoing.

7. **Termination.** This Security Agreement is made for collateral purposes only. Upon payment in full of all Obligations and termination of the Loan Agreement, Assignee shall execute and deliver to Assignor a termination of Assignee's security interest granted herein and all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Patents, Trademarks, Copyrights and Licenses, subject to any disposition thereof which may have been made by Assignee pursuant hereto.

8. **Duties of Assignor.** Assignor shall have the duty (i) to prosecute diligently any patent, trademark and copyright application pending as of the date hereof or thereafter until all Obligations shall have been paid in full and the Loan Agreement is terminated, (ii) to make application on unpatented but patentable inventions and on trademarks and copyrights, as appropriate, and (iii) to preserve and maintain all rights in patent applications and patents of the Patents, in trademark applications, trademarks and trademark registrations of the Trademarks and in copyright applications and copyrights of the Copyrights. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a patent, trademark or copyright application, or any pending patent, trademark or copyright application or any Patent, Trademark, License or Copyright without the consent of the Assignee, which consent shall not be unreasonably withheld.

9. **Event of Default.** Upon the occurrence and during the continuance of an Event of Default, as defined in the Loan Agreement, Assignee may, without further notice to or consent of Assignor, immediately record all assignments previously executed and delivered to Assignee by Assignor and/or execute and record with all applicable offices (including, without limitation, the Patent and Trademark Office) an absolute assignment to Assignee by Assignor of all rights, title and interest of Assignor in and to the Patents, Trademarks, Copyrights, Licenses and other Collateral. Assignor hereby authorizes and agrees that Assignee may, through the power of attorney granted in **Section 14** hereof, irrevocably execute and deliver in Assignor's name any and all such assignments and agreements and to take any and all other actions in Assignor's name as Assignee shall deem reasonable or appropriate to transfer and convey all right, title and interest of Assignor in and to the Collateral to Assignee or any other person or entity selected by Assignee.

10. **Assignee's Right to Sue.** Assignee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents, Trademarks, Copyrights and/or Licenses, and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this **Section 10**.

11. **Waivers.** No course of dealing between Assignor and Assignee, nor any failure to exercise, nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

12. **Severability.** The provisions of this Security Agreement are severable, and if any clause or provision shall be invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Security Agreement in any jurisdiction.

13. **Modification.** This Security Agreement cannot be altered, amended or modified in any way, except as specifically provided in **Section 4** hereof or by a writing signed by the parties hereto.

14. **Cumulative Remedies; Power of Attorney; Effect on Loan Agreement.** All of Assignee's rights and remedies with respect to the Patents, Trademarks, Copyrights and Licenses, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor hereby authorizes Assignee to make, constitute and appoint any officer or agent of Assignee as Assignee may select, in its sole discretion, as Assignor's true and lawful attorney-in-fact, with power to (i) endorse Assignor's name on all applications, documents, papers and instruments necessary or reasonably desirable for the Assignee to protect, evidence, perfect or enforce its security interest in the Patents, Trademarks, Copyrights and Licenses, (ii) intentionally omitted, (iii) following an Event of Default, grant or issue any exclusive or non-exclusive license under the Patent or Trademark to anyone, including Assignee, and/or (iv) following an Event of Default, assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Trademarks, Copyrights or Licenses to anyone, including Assignee. Assignee may act under such power of attorney to take the actions referenced in **Section 4**. Assignee hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until all Obligations shall have been paid in full and the Loan Agreement shall have been terminated. Assignor acknowledges and agrees that this Security Agreement is not intended to limit or restrict in any way the rights and remedies of Assignee under the Loan Agreement but rather is intended to facilitate the exercise of such rights and remedies given it by the terms of this Security Agreement, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Trademarks, Copyrights or Licenses may be located.

15. **Binding Effect; Benefits.** This Security Agreement shall be binding upon the Assignor and its successors and assigns, and shall inure to the benefit of Assignee, its nominees, successors and assigns.

16. **Governing Law.** This Security Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

17. **No Novation.** This Security Agreement shall amend and restate, but not satisfy, the obligations of Existing Guarantors under the Existing Security Agreement. Nothing contained herein shall be deemed to constitute a novation or satisfaction of the Existing Security Agreement, but the terms and conditions of this Security Agreement shall amend, restate, and supersede the terms and conditions of the Existing Security Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Security Agreement effective the day and year first above written.

BORROWER:

INTEST CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Secretary, Treasurer and Chief Financial Officer

GUARANTORS:

AMBRELL CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST SILICON VALLEY CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

INTEST EMS, LLC,
a Delaware limited liability company

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

TEMPTRONIC CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

VIDEOLOGY IMAGING CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Vice President, Treasurer and Secretary

BANK:

M&T BANK

By: /s/ Steven A. Vilardi
Steven A. Vilardi \, Vice President

EXHIBIT "A"

TO

PATENTS, TRADEMARKS, COPYRIGHTS

AND LICENSES SECURITY AGREEMENT

Patents

Registered Owner	Patent Name	Registration Number	Date of Registration
inTEST Corporation	Method and apparatus for docking a test head with a peripheral	9,897,628	18-Sep-14
inTEST Corporation	Test head manipulator	9,557,371	6-May-08
inTEST Corporation	Test head manipulator	9,347,804	23-Feb-07
inTEST Corporation	Test head positioner system	9,134,387	17-Mar-08
inTEST Corporation	Positioner system and method of positioning	8,981,807	27-Jul-10
inTEST Corporation	Cradle and cable handler for a test head manipulator	8,763,962	17-Mar-08
inTEST Corporation	Test head docking system and method with sliding linkage	8,760,182	14-Jul-08
inTEST Corporation	Test head vertical support system	8,700,218	29-Dec-06
inTEST Corporation	Test head manipulator	8,618,822	23-Feb-07
inTEST Corporation	Wrist joint for positioning a test head	8,444,107	28-Jan-03
inTEST Corporation	Test head positioning system and method	8,350,584	29-Dec-06
inTEST Corporation	Test head positioner system	8,212,578	17-Mar-08
inTEST Corporation	Test head positioning system	8,141,834	10-Aug-06
inTEST Corporation	Test head positioning system and method	8,035,406	31-Mar-03
inTEST Corporation	Safety mechanism for materials handling system	7,845,607	18-Feb-03
inTEST Corporation	Modular interface	7,834,718	13-Dec-04
inTEST Corporation	Test head positioning system and method	7,728,579	31-Mar-03
inTEST Corporation	Modular interface	7,605,583	13-Jul-04
inTEST Corporation	Modular interface	7,605,582	13-Jul-04
inTEST Corporation	Computer cabinet	D585,662	20-Sep-07
inTEST Corporation	Test head docking system and method	7,466,122	16-Jul-01
inTEST Corporation	Apparatus and method for balancing and for providing a compliant range to a test head	7,340,972	22-Sep-00
inTEST Corporation	Modular interface	7,301,326	13-Jul-04
inTEST Corporation	Signal module	D554,594	22-Nov-06
inTEST Corporation	Signal module	D554,593	22-Nov-06
inTEST Corporation	Test head positioning system and method	7,235,964	31-Mar-03
inTEST Corporation	Signal module	D535,260	13-Jul-04
inTEST Corporation	Signal module	D528,989	13-Jul-04
inTEST Corporation	Test head docking system and method	7,109,733	16-Jul-01
inTEST Corporation	Apparatus and method for balancing and for providing a compliant range to a test head	7,084,358	20-Sep-01
inTEST Corporation	Side supports with adjustable center of gravity	6,975,105	20-Sep-00
TEMPTRONIC Corporation	Apparatus for attachment of accessories to processing equipment	10,578,237	12-Aug-16

Registered Owner	Patent Name	Registration Number	Date of Registration
TEMPTRONIC Corporation	Temperature-controlled enclosures and temperature control system using the same	10,060,668	13-Mar-07
TEMPTRONIC Corporation	Temperature system having an impurity filter	9,335,080	17-Oct-11
TEMPTRONIC Corporation	Environmental test system and method eith in-situ temperature sensing of device under test (DUT)	8,602,641	2-May-13
TEMPTRONIC Corporation	Temperature-controlled enclosures and temperature control system using the same	8,408,020	13-Mar-07
TEMPTRONIC Corporation	Temperature-controlled enclosures and temperature control system using the same	7,629,533	13-Mar-07
TEMPTRONIC Corporation	High-flow cold air chiller (THERMONICS)	7,603,871	29-Jun-06
TEMPTRONIC Corporation	Method and apparatus for latent temperature control for a device under test (SIGMA)	7,483,769	30-Jan-06
TEMPTRONIC Corporation	Method and apparatus for latent temperature control for a device under test (SIGMA)	6,993,418	2-Aug-02
TEMPTRONIC Corporation	Workpiece chuck with temperature control assemble having spacers between layers providing clearance for thermoelectric modules	6,886,347	10-Jul-03
TEMPTRONIC Corporation	Workpiece chuck with temperature control assemble having spacers between layers providing clearance for thermoelectric modules	6,745,575	11-Jul-02
TEMPTRONIC Corporation	Apparatus and method for controlling temperature in a device under test using integrated temperature sensing diode	6,552,561	20-Apr-01
TEMPTRONIC Corporation	Apparatus and method for controlling temperature in a wafer using integrated temperature sensing diode	6,545,494	10-Jul-00
Ambrell Corp	Food heater	10,206,250	20-Apr-06
Ambrell Corp	Induction heating system	9,554,423	25-Oct-12
Ambrell Corp	Dynamic power balancing among multiple induction heater power units	9,439,246	15-Mar-13
Ambrell Corp	Power system component protection system for use with an induction heating system	9,167,631	25-Aug-06
Ambrell Corp	Food heater	9,000,335	21-Apr-06
Ambrell Corp	Induction heating systems and methods for producing an object having a varying hardness along the length of the object	8,803,047	14-Jun-12
Ambrell Corp	Portable food heater	8,481,893	28-Aug-06
Ambrell Corp	Power switching system to increase induction heating to a load from available AC mains power	8,331,115	15-Nov-07
Ambrell Corp	Automatic frequency compensation for pulse width modulated RF level control	8,283,985	25-Aug-06
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	8,269,532	10-Aug-06

Registered Owner	Patent Name	Registration Number	Date of Registration
Ambrell Corp	High voltage full bridge circuit and method for operating the same	7,995,362	15-Jun-06
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	7,906,997	10-Aug-06
Ambrell Corp	Radio frequency (RF) induction cooking food heater	7,829,827	21-Apr-06
Ambrell Corp	Portable food heater	7,804,045	28-Aug-06
Ambrell Corp	Power switching system to increase induction heating to a load from available AC mains power	7,787,268	15-Nov-07
Ambrell Corp	Automatic frequency compensation for pulse width modulated RF level control	7,626,463	25-Aug-06
Ambrell Corp, BASF Corp	Fast-drying, radiofrequency-activatable inkjet inks and methods and systems for their use	7,520,600	1-Nov-04
Ambrell Corp	Constant phase angle control for frequency agile power switching systems	7,551,011	10-Aug-06
Ambrell Corp	High voltage full bridge circuit and method for operating the same	7,489,530	15-Jun-05
Ambrell Corp	Electrode apparatus for stray field radio frequency heating	6,995,345	18-Mar-02
Ambrell Corp	Induction furnace for heating a workpiece in an inert atmosphere or vacuum	6,861,629	9-May-02

Patent Applications

Registered Owner	Patent Name	Application Number	Filing Date
TEMPTRONIC Corporation	Temperature forcing system and method with conductive thermal probes	15/437861	21-Feb-17
TEMPTRONIC Corporation	System and method for device under test cooling using digital scroll compressor	15/947415	6-Apr-18
TEMPTRONIC Corporation	Apparatus and method for controlling temperature at multiple test sites	16/692334	22-Nov-19

EXHIBIT "B"

TO

PATENTS, TRADEMARKS, COPYRIGHTS

AND LICENSES SECURITY AGREEMENT

Trademarks

Registered Owner	Mark	Registration Number	Date of Registration
TEMPTRONIC Corporation	TEMPTRONIC	3748381	Feb. 16, 2010
TEMPTRONIC Corporation	THERMONICS	4278707	Jan. 22, 2013
TEMPTRONIC Corporation	TEMPERATURE ON THE 	1094282	Jun. 27, 1978
TEMPTRONIC Corporation	THERMOJOGGER	1433671	Mar. 24, 1987
TEMPTRONIC Corporation	THERMO CHUCK	1197134	Jun. 8, 1982
TEMPTRONIC Corporation	THERMO STREAM	1085339	Feb. 14, 1984
TEMPTRONIC Corporation	THERMO SPOT	5261537	Aug. 5, 2017
inTEST Corporation	INTEST	2503999	Nov. 6, 2001
inTEST Corporation	inTEST	1268558	Feb. 28, 1984
inTEST Corporation	in2	1255204	Oct. 25, 1983
inTEST Corporation	CENTAUR	3657110	Jul. 21, 2009
inTEST Corporation	TRANSPAR	3635236	Jun. 9, 2009
Ambrell	EXPERIENCE THE EXCELLENCE	5101636	Dec. 13, 2016
Ambrell	EVIEW	4922677	Mar. 22, 2016
Ambrell	EKOHEAT	4751860	Jun. 9, 2015
Ambrell	EASYCOIL	4746013	Jun. 2, 2015
Ambrell	AMBRELL	4623638	Oct. 21, 2014
Ambrell	AMBRELL	3317193	Oct. 23, 2007
Ambrell	EKOHEAT	3526330	Nov. 4, 2008
Ambrell	AMERITHERM	2299340	Dec. 14, 1999
Ambrell		2301415	Dec. 21, 1999
Videology	VIDEOLOGY	85018528	
Videology		78865148	

Trademark Applications - None.

EXHIBIT "C"
TO
PATENTS, TRADEMARKS, COPYRIGHTS
AND LICENSES SECURITY AGREEMENT

Copyrights

None.

EXHIBIT "D"

TO

**PATENTS, TRADEMARKS, COPYRIGHTS
AND LICENSES SECURITY AGREEMENT**

Licenses

None.

AMENDED AND RESTATED DELAYED DRAW TERM NOTE 1

\$12,000,000

Philadelphia, Pennsylvania

Dated: October 28, 2021

FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND, INTEST CORPORATION, a Delaware corporation (the "**Borrower**"), hereby promises to pay to the order of **M&T BANK ("Bank")**, the principal sum of Twelve Million Dollars (\$12,000,000), together with interest thereon upon the following terms:

1. **Term Note.** This Amended and Restated Delayed Draw Term Note 1 is the "Term Note" as defined in that certain Amended and Restated Loan and Security Agreement dated as of October 15, 2021 herewith between Borrower and Bank (such Amended and Restated Loan and Security Agreement, as the same may be amended, supplemented or restated from time to time, being the "Loan Agreement") and, as such, shall be construed in accordance with all terms and conditions thereof. Capitalized terms not defined herein shall have such meaning as provided in the Loan Agreement. This Note is entitled to all the rights and remedies provided in the Loan Agreement and the Loan Documents and is secured by all Collateral as described therein.

2. **Interest Rate.** Interest on the unpaid principal balance hereof will accrue from the date of each advance until final payment thereof at the rate per annum set forth in the Loan Agreement.

3. **Amortization.** Borrower shall pay to Bank the principal balance hereof in equal and consecutive monthly installments of \$200,000.00 over a five (5) year period (on a straight line amortization basis) commencing on November 1, 2021, with one final payment of the remaining principal balance plus all accrued and unpaid interest thereon on the Term Loan Maturity Date.

4. **Default Interest.** Interest will accrue on the outstanding principal amount hereof following the occurrence and during the continuance of an Event of Default or the expiration of the Contract Period until paid at a rate per annum equal to the Default Rate.

5. **Post Judgment Interest.** Any judgment obtained for sums due hereunder or under the Loan Documents will accrue interest at the Default Rate until paid.

6. **Computation.** Interest will be computed on the basis of a year of three hundred sixty (360) days and paid for the actual number of days elapsed.

7. **Interest Payments.** Interest which accrues on the outstanding principal balance hereof at the applicable rate set forth above shall be due and payable in accordance with the terms set forth in the Loan Agreement.

8. **Default; Remedies.** Upon the occurrence of an Event of Default, Bank, at its option and without notice to Borrower, may declare immediately due and payable the entire unpaid balance of principal and all other sums due by Borrower hereunder and under the other Loan Documents, together with interest accrued thereon at the applicable rate specified above to the date of the Event of Default and thereafter at the Default Rate. Payment thereof may be enforced and recovered in whole or in part at any time and from time to time by one or more of the remedies provided to Bank in this Note or in the Loan Documents or as otherwise provided at law or in equity, all of which remedies are cumulative and concurrent.

9. **Waivers.** Borrower and all endorsers hereby, jointly and severally, waive presentment for payment, demand, notice of demand, notice of nonpayment or dishonor, protest and notice of protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note, except for such notices, if any, as are expressly required to be delivered by Bank to Borrower under the Loan Agreement.

10. **Miscellaneous.** If any provisions of this Note shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof. This Note has been delivered in and shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to the law of conflicts. This Note shall be binding upon Borrower and upon Borrower's successors and assigns and shall benefit Bank and its successors and assigns. The prompt and faithful performance of all of Borrower's obligations hereunder, including without limitation, time of payment, is of the essence of this Note.

11. **JURY TRIAL WAIVER.** BORROWER WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER ANY OF THE LOAN DOCUMENTS OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF BORROWER OR BANK WITH RESPECT TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THE LOAN AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. BORROWER ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.

12. **No Novation.** This Amended and Restated Delayed Draw Term Note 1 shall amend, restate and replace but shall not repay or satisfy the obligations of Borrower under that certain Delayed Draw Term Note dated October 15, 2021 in the original principal amount of Twenty Five Million Dollars (\$25,000,000.00) from Borrower in favor of Bank (the "**Prior Note**"). Nothing contained herein shall be deemed to constitute a novation or satisfaction of the Prior Note but the terms and conditions of this Amended and Restated Delayed Draw Term Note 1 shall supersede the terms and conditions of the Prior Note.

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IN WITNESS WHEREOF, Borrower, intending to be legally bound hereby, has caused this Delayed Draw Term Note to be duly executed the day and year first above written.

BORROWER:

INTEST CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Secretary, Treasurer and Chief Financial Officer

AMENDED AND RESTATED DELAYED DRAW TERM NOTE 1A

\$13,000,000

Philadelphia, Pennsylvania

Dated: October 28, 2021

FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND, INTEST CORPORATION, a Delaware corporation (the "**Borrower**"), hereby promises to pay to the order of **M&T BANK ("Bank")**, the principal sum of Thirteen Million Dollars (\$13,000,000), together with interest thereon upon the following terms:

1. **Term Note**. This Amended and Restated Delayed Draw Term Note 1A is the "Term Note" as defined in that certain Amended and Restated Loan and Security Agreement of even date herewith between Borrower and Bank (such Amended and Restated Loan and Security Agreement, as the same may be amended, supplemented or restated from time to time, being the "**Loan Agreement**") and, as such, shall be construed in accordance with all terms and conditions thereof. Capitalized terms not defined herein shall have such meaning as provided in the Loan Agreement. This Note is entitled to all the rights and remedies provided in the Loan Agreement and the Loan Documents and is secured by all Collateral as described therein.

2. **Interest Rate**. Interest on the unpaid principal balance hereof will accrue from the date of each advance until final payment thereof at the rate per annum as set forth in the Loan Agreement.

3. **Default Interest**. Interest will accrue on the outstanding principal amount hereof following the occurrence and during the continuance of an Event of Default or the expiration of the Contract Period until paid at a rate per annum equal to the Default Rate.

4. **Post Judgment Interest**. Any judgment obtained for sums due hereunder or under the Loan Documents will accrue interest at the Default Rate until paid.

5. **Computation**. Interest will be computed on the basis of a year of three hundred sixty (360) days and paid for the actual number of days elapsed.

6. **Interest Payments**. Interest which accrues on the outstanding principal balance hereof at the applicable rate set forth above shall be due and payable in accordance with the terms set forth in the Loan Agreement.

7. **Default; Remedies**. Upon the occurrence of an Event of Default, Bank, at its option and without notice to Borrower, may declare immediately due and payable the entire unpaid balance of principal and all other sums due by Borrower hereunder and under the other Loan Documents, together with interest accrued thereon at the applicable rate specified above to the date of the Event of Default and thereafter at the Default Rate. Payment thereof may be enforced and recovered in whole or in part at any time and from time to time by one or more of the remedies provided to Bank in this Note or in the Loan Documents or as otherwise provided at law or in equity, all of which remedies are cumulative and concurrent.

8. **Waivers**. Borrower and all endorsers hereby, jointly and severally, waive presentment for payment, demand, notice of demand, notice of nonpayment or dishonor, protest and notice of protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note, except for such notices, if any, as are expressly required to be delivered by Bank to Borrower under the Loan Agreement.

9. **Miscellaneous.** If any provisions of this Note shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof. This Note has been delivered in and shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to the law of conflicts. This Note shall be binding upon Borrower and upon Borrower's successors and assigns and shall benefit Bank and its successors and assigns. The prompt and faithful performance of all of Borrower's obligations hereunder, including without limitation, time of payment, is of the essence of this Note.

10. **JURY TRIAL WAIVER.** BORROWER WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER ANY OF THE LOAN DOCUMENTS OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF BORROWER OR BANK WITH RESPECT TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THE LOAN AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. BORROWER ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS PARAGRAPH, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS PARAGRAPH.

11. **No Novation.** This Amended and Restated Delayed Draw Term Note 1A shall amend, restate and replace but shall not repay or satisfy the obligations of Borrower under that certain Delayed Draw Term Note dated October 15, 2021 in the original principal amount of Twenty Five Million Dollars (\$25,000,000.00) from Borrower in favor of Bank (the "**Prior Note**"). Nothing contained herein shall be deemed to constitute a novation or satisfaction of the Prior Note but the terms and conditions of this Amended and Restated Delayed Draw Term Note 1 shall supersede the terms and conditions of the Prior Note.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Borrower, intending to be legally bound hereby, has caused this Delayed Draw Term Note to be duly executed the day and year first above written.

BORROWER:

INTEST CORPORATION,
a Delaware corporation

By: /s/ Duncan Gilmour
Name: Duncan Gilmour
Title: Secretary, Treasurer and Chief Financial Officer